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WORKS
OF
SIR WILLIAM JONES

VOL. III

PRINTED FOR G. G. AND J. B. LONDON, BY J. B. LONDON, 1805.

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NEW YORK

SIR WILLIAM JONES

BY THE EDITOR

VOL. II

LONDON

PRINTED BY J. JOHNSON, ST. PAUL'S CHURCH-YARD, AND BY J. JOHNSON, 10, N. B. ST. MARTIN'S LANE.

1801

THE
WORKS
OF
SIR WILLIAM JONES.

IN SIX VOLUMES.

VOL. III.

LONDON:
PRINTED FOR G. G. AND J. ROBINSON, PATER-NOSTER-ROW;
AND R. H. EVANS (SUCCESSOR TO MR. EDWARDS), NO. 26, PALL-MALL.

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CHARGE

TO THE

GRAND JURY,

AT CALCUTTA, DECEMBER 4, 1783.

GENTLEMEN OF THE GRAND JURY,

IT might perhaps be sufficient, if my address to you this day were confined to some short remarks on those offences, of which the prisoners named in the calendar are accused; but such is the particularity of my own situation, that I cannot help feeling an inclination to take a wider range. Six years have elapsed, since the seat, which I have now the honour to fill, became vacant; and, in that interval, so many important events have happened in *India*, and so many interesting debates have been held in the parliament of *Britain*, on the powers and objects of this judicature, that I may naturally be expected to touch at least, though not to enlarge, on those events, all of which I have attentively considered, and on the result of those debates, at most of which I was present. Such expectations, if such have been formed, I should be very loth to disappoint; and, as I shall express my sentiments without reserve, you will hear them, I am confident, with perfect candour.

None of you, I hope, will suspect me of political zeal for any set of ministers in *England*, with which vice my mind has never been infected; nor of political attachments here, which in my station it will ever behove me to disclaim, if, in the character of a magistrate appointed to preserve the publick tranquillity, I congratulate you, who are assembled to inquire into all violations of it, on the happy prospect of a general peace in every part of the world, with which our country is connected. The certain fruits of this pacification will be the revival and extension of commerce in all the dependencies of *Britain*, the improvement of agriculture and manufactures, the encouragement of industry and civil virtues, by which her revenues will be restored, and her navy strengthened, her subjects enriched and herself exalted: but it is to *India*, that she looks for the most splendid as well as most substantial of those advantages; nor can she be disappointed, as long as the supreme executive and judicial powers shall concur in promoting the publick good, without danger of collision or diminution of each other's dignity; without impediment, on the one side, to the operations of government, or, on the other, to the due administration of justice.

The institution, gentlemen, of this court appears to have been misapprehended: it was not, I firmly believe, intended as a censure on any individuals, who exist, or have existed. Legislative provisions have not the individual for their object, but the species; and are not made for the convenience of the day, but for the regulation of ages. Whatever were the reasons for its first establishment, of which I may not be so perfectly apprized, I will venture to assure you, that it has been continued for one obvious reason; that an extensive dominion, without a complete and independent judicature, would be a phenomenon, of which the history of the world affords no example. Justice must be administered with effect, or society cannot long subsist. It is a truth

truth coeval with human nature, and not peculiar to any age or country, that power in the hands of men will sometimes be abused, and ought always, if possible, to be restrained; but the restrictions of general laws imply no particular blame. How many precautions have from time to time been used to render judges and jurors impartial, and to place them above dependence! Yet none of us conceive ourselves disgraced by such precautions. The object then of the court, thus continued with ample powers, though wisely circumscribed in its jurisdiction, is plainly this: that, in every age, the *British* subjects resident in *India* be protected, yet governed, by *British* laws; and that the natives of these important provinces be indulged in their own prejudices, civil and religious, and suffered to enjoy their own customs unmolested; and why those great ends may not now be attained, consistently with the regular collection of the revenues and the supremacy of the executive government, I confess myself unable to discover.

Another thing has been, if not greatly misconceived, at least very imperfectly understood; and no wonder, since it requires some professional habits to comprehend it fully: I mean the true character and office of judges appointed to administer those laws. The use of law, as a science, is to prevent mere discretionary power under the colour of equity; and it is the duty of a judge to pronounce his decisions, not simply according to his own opinion of justice and right, but according to prescribed rules. It must be hoped, that his own reason generally approves those rules; but it is the judgement of the law, not his own, which he delivers. Were judges to decide by their bare opinions of right and wrong, opinions always unknown, often capricious, sometimes improperly biased, to what an arbitrary tribunal would men be subject! In how dreadful a state of slavery would they live! Let us be satisfied, gentlemen, with law, which all, who please, may understand, and not call for equity in its

popular sense, which differs in different men, and must at best be dark and uncertain.

The end of criminal law, a most important branch of the great juridical system, is to prevent crimes by punishment, so that the pain of it, as a fine writer expresses himself, may be inflicted on a few, but the dread of it extended to all. In the administration of penal justice, a severe burden is removed from our minds by the assistance of juries; and it is my ardent wish, that the court had the same relief in civil, especially commercial, causes; for the decision of which there cannot be a nobler tribunal than a jury of experienced men assisted by the learning of a judge. These are my sentiments; and I express them, not because they may be popular, but because I sincerely entertain them; for I aspire to no popularity, and seek no praise, but that which may be given to a strict and conscientious discharge of duty, without predilection or prejudice of any kind, and with a fixed resolution to pronounce on all occasions what I conceive to be the law, than which no individual must suppose himself wiser.

The mention of my duty, gentlemen, leads me naturally to the particular subject of my charge, from which I have not, I hope, unreasonably deviated: but you are too well apprized of your duty to need very particular instructions; and happily no higher offences (except one larceny) appear in the calendar than some criminal frauds and a few assaults: one of them, indeed, is stated as very atrocious; and, if you consider that the frequency of small crimes becomes a serious evil in society, you will not think the more trivial complaints unworthy of your attention. Redress of wrongs must be given, or it will be taken; and the law wisely forbids the slightest attack upon the person of a subject, lest far worse mischief should ensue from
the

the sudden ebullition of rage, or the flower, but more dangerous, operation of revenge.

Your powers, however, are not limited to this calendar, or even to the bills which may be preferred; for, whatever else shall come to your knowledge, it will be your part to present, and ours to hear attentively: thus, by a cordial concurrence in preserving the publick peace, and bringing such as violate it to punishment, we shall contribute, in our respective stations, to the security of this great settlement, and to the prosperity of these provinces, in which the dearest interests of our common parent and country, *Great Britain*, are now essentially involved.

CHARGE

TO THE

GRAND JURY,

AT CALCUTTA, JUNE 10, 1785.

GENTLEMEN,

WHEN I first addressed a Grand Jury of *Calcutta*, too soon after my arrival in this country for any distinct idea to be formed of all its inhabitants, the small number of prisoners, which, to my infinite joy, appeared in the calendar, gave me an opportunity of speaking at large on the institution of this court, and the principles of criminal justice. It is my turn to address you at the opening of the present session; but I have not, unfortunately, the same reason to rejoice, nor the same excuse for expatiating on general topics: I may, nevertheless, without the impropriety of detaining you too long, touch on one or two subjects, which I have much at heart, and on which I cannot but flatter myself with a hope of your concurrence.

If I may justly, as I do sincerely, conclude from my own observation at former sessions, that the Grand Juries of this capital will deserve the praise of intelligence and moderation, vigilance and humanity, I must be
persuaded,

persuaded, that you, Gentlemen, have little need of instruction in the discharge of your important duty, and I confidently leave with you the few persons, who are, I see, imprisoned under accusations of petty crimes; nor is it either expedient or becoming to point at particular cases, of which I have no official knowledge.

One case, which has come regularly before me as a justice of the peace, concerning the death of a *slave girl*, whom her master had beaten, I think it my duty to mention more at large; leaving to you the determination on facts from a view of all the circumstances, and declaring only my opinion of the law. A master may legally correct his servant with moderation, and with a view to his amendment; nor, if the servant thus corrected should die by some misfortune unforeseen, and unlikely to happen, would the master be guilty of any crime; but if the correction be immoderate, excessive, unreasonable, cruel, the party may have, if he live, a reparation in damages; or, if he die, the master will be guilty of manslaughter or of murder, according to the circumstances; of manslaughter, if he gave the fatal blow in a sudden burst of passion, after violent provocation, with a weapon not likely to kill; of murder, if he had full time for deliberation and coolness of blood; and that, whether he intended to destroy life, or only to chastise immoderately; for the true sense of *malice*, to constitute this *horrible* crime, is *MALIGNITY of heart*, or a *disposition to do mischief*, which may be ascertained by comparing the fault with the correction; and the age and condition of the person stricken, with the force of the striker, and the danger of the instrument used by him. It is hardly needful to remark, that, in such cases, a servant and a *slave*, if such a relation be known to our modern law, stand precisely on the same ground; as a lord, in feudal times, might indisputably have been convicted of murder for killing his villain or his neife.

In

In the present case, you will hear the witnesses on one side only; and it is recommended by great lawyers, lest enormous crimes should be smothered without a trial, that Grand Juries find such bills, as their consciences oblige them to find at all, for the highest degree in the scale, that the evidence fairly supports, leaving it to the Petty Jury, under the direction of the Court, in questions of *law*, either to hold the prisoner guiltless, or to ascertain the precise measure of his guilt by their verdict; but you are not absolutely bound to follow this practice: you are bound to find the whole truth, as nearly as you can; and if the evidence amount not, in your conscientious opinion, to murder, you may reject the bill for that crime, and find another for manslaughter; nor ought it ever to be forgotten, that the great rule which all should observe, from the petty jurymen to the prince, is, to look on the crime and example with the eye of severity, but on the criminal, as far as possible, with the eye of compassion; since it is the extremity of evil, says lord Bacon, “When mercy has no commerce with misery:” yet it must be added, that mercy is due to the publick also, who may be great sufferers, if crimes actually committed escape unpunished.

Another case, Gentlemen, calls for your serious attention: a forgery has been committed, either by the person accused before me, or by his accuser; which involves, not only the common guilt of that crime, *an intent to defraud another*, but also a design to *affect his personal rights* in the highest degree, and to abuse the process of this court by rendering it subservient to the purpose of imprisoning a man, who stood in the way of others; and this attempt was to be forwarded by the basest subornation of perjury: it is a contest between two brothers for a large estate; both the accused and his accuser are *Bráhmans* of some rank, and have been active in opposite interests; the low wretches, who forged the bond, have confessed their act, which was done, they say, at the instigation of the accused *Bráhman*; who denies any knowledge

of their persons, and insists that his enemy must have engaged them to ruin him. Your sagacity may enable you to discover the truth; but even in this case, you must temper justice with lenity, nor suffer yourselves to be influenced by the odiousness of the offence; and in all cases of *forgery*, permit me to recommend indictments for the misdemeanour only; since very strong arguments have been used, both at home and here, to prove that the rigour of our modern law in punishing that crime with death, cannot be legally extended to these provinces. I give no decided opinion yet on that point, nor on another, which may be started, whether, if the crime under consideration *be* a capital felony in *India*, an indictment will also lie as at common law, since it has been held that *a felony merges or absorbs a misdemeanour*; but I am prepared to deliver my sentiments, and will deliver them fully, at a proper time.

I turn from these cases, with full confidence both in your justice and your benevolence, to a subject which has greatly moved me, and on which the Grand Jury last summer presented a strong address to the Court: I mean the condition of prisoners for debt in the jail of Calcutta. It is much to be lamented that no method has yet been devised by *Christian* nations to keep defendants within the reach of justice, but that of confinement in a common prison, where bad habits are generally learned, and good ones generally discontinued; where a debtor, perhaps faultless, is with-holden from his occupations and from his family, whilst he remains miserable himself, and useless to the publick. I cannot help thinking, that a better mode might be adopted, with no considerable expense to the state or to individuals, especially if the debtors be workmen or artificers; and imprisonment in this country, at this season, is to all a grievous calamity; to many in every season from religious notions of a defilement, that reaches beyond the funeral pile, worse than instant death: but, until the wisdom, goodness, and
power

power of the legislature, shall co-operate for this end, we can only hope to mitigate an evil which we cannot prevent. You may be assured that no pains will be spared by us in promoting the object of the address which I have mentioned, that whatever can be legally done by the Court, will not be omitted; and that, where our authority is limited, we will apply to the executive government here, or, if necessary, to the fountain of all authority at home. It may, perhaps, be within your province to see that affliction be not added to affliction, and that prisoners be not harassed by exorbitant demands: I would not intimate that any such are made by the present keeper of the jail, of whom I know no harm, and have heard a favourable character; but following the spirit of a benevolent statute, now, I believe, expired, I earnestly exhort you to inquire, whether any kind of extortion has been committed, or any fees exacted beyond the moderate provision of the law; that, if such enormity hath been practised, under the pretence of *custom*, the authors of it may be punished, and the sufferers by it relieved.

There is another subject which has made a deep impression on my mind, and you will, I trust, accompany, if not anticipate, my remarks on it: I mean the misery of *domestick bondage*, always afflicting enough in itself, and in this town often aggravated by the cruelty of masters. Permit me here to request, that you will not consider my observations on this head as relating to the death of the girl, for which *Osborne* is imprisoned; but his act, whatever may be the guilt of it, must not preclude me from discoursing on other acts of the same nature, the consequences of which have not been so dreadful. It is needless to expatiate on the law (if it be law) of private slavery; but I make no scruple to declare my own opinion, that *absolute unconditional slavery*, by which one human creature becomes the *property* of another, like a horse or an ox, is happily unknown to the laws of *England*, and that no human law could give it a just sanction: yet, though I hate the

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word,

word, the continuance of it, properly explained, can produce little mischief. I consider slaves as *servants under a contract*, express or implied, and made either by themselves, or by such persons, as are authorized by nature or law, to contract for them, until they attain a due age to cancel or confirm any compact that may be disadvantageous to them: I have *slaves*, whom I rescued from death or misery, but consider them as other *servants*, and shall certainly tell them so, when they are old enough to comprehend the difference of the terms. Slaves, then, if so we must call them, ought not to be treated more severely than servants by the year or by the month; and the correction of them should ever be proportioned to their offence: that it should never be wanton or unjust, all must agree. Nevertheless, I am assured from evidence, which, though not all judicially taken, has the strongest operation on my belief, that the condition of slaves within our jurisdiction is beyond imagination deplorable; and that cruelties are daily practised on them, chiefly on those of the tenderest age and the weaker sex, which, if it would not give me pain to repeat, and you to hear, yet, for the honour of human nature, I should forbear to particularize: if I except the *English* from this censure, it is not through partial affection to my own countrymen, but because my information relates chiefly to people of other nations, who likewise call themselves *Christians*. Hardly a man or a woman exists in a corner of this populous town, who hath not at least one slave child, either purchased at a trifling price, or saved perhaps from a death, that might have been fortunate, for a life, that seldom fails of being miserable: many of you, I presume, have seen large boats filled with such children coming down the river for open sale at *Calcutta*; nor can you be ignorant, that most of them were stolen from their parents, or bought, perhaps, for a measure of rice in a time of scarcity, and that the sale itself is a defiance of this government, by violating one of its positive orders, which was made some years ago, after a consultation of the most reputable *Hindus* in *Calcutta*,
who

who condemned such a traffic, as repugnant to their *Sástra*. The number of small houses in which these victims are pent, makes it, indeed, very difficult for the settlement at large to be apprized of their condition; and if the sufferers knew where or how to complain, their very complaints may expose them to still harsher treatment; to be tortured, if remanded, or, if set at liberty, to starve. Be not, however, discouraged by the difficulty of your inquiries: your vigilance cannot but surmount it; and one great example of a just punishment, not capital, will conduce more to the prevention of similar cruelties, than the strongest admonition or severest verbal reproof. Should the slaveholders, through hardness of heart or confidence in their places of concealment, persist in their crimes, you will convince them, that their punishment will certainly follow their offence, and the most hardened of them will, no doubt, discontinue the contest. Here, again, I may safely promise you, that, whatever the Court can do in terminating this evil, will cheerfully be done; and if our concurrent labour should yet be found ineffectual, I confidently persuade myself, that such regulations of government will be adopted on our recommendation, as cannot fail of insuring future protection to the injured, support to the weak, and some consolation at least to the wretched: but I once more adjure you to dismiss these observations from your mind, when you deliberate on the case of *homicide*, to consider them as pointed solely at acts of cruelty, which make life miserable without causing the loss of it, and to find such bills as you cannot avoid finding, according to the whole evidence before you, and to your opinion, after our directions, of the law resulting from it.

The last offence which I shall mention to you is so general, that it may affect every part of our proceedings in this Court, and so atrocious, that human nature, in which a sense of religion seems inherent, starts at the name of it; I mean *the wilful violation of solemn oaths*, without
the

the sanction of which, neither our fame, our properties, our freedom, or our lives can be long secure. Nevertheless, I have many reasons to believe, and none to doubt, that affidavits of every imaginable fact may as easily be procured in the streets and markets of *Calcutta*, especially from the natives, as any other article of traffick. I need not exhort you in general to present perjured witnesses, and their suborners of every class or persuasion, but will detain you a few moments longer with a remark or two on such inhabitants of these provinces, as profess a belief in God, and in *Mohammed*, whom they call his prophet. All the learned lawyers of his religion, with whom I have conversed in different parts of *India*, have assured me with one voice, that an oath by a *Musliman* is not held *binding on his conscience*, unless it be taken *in the express name of the Almighty*, and that even then it is incomplete, unless the witness, after having given his evidence, swear again *by the same awful name*, that he *has spoken* nothing but the truth. Nor is this abstruse or refined learning, but generally known to *Mohammedans* of every degree, who are fully apprized, that an *imprecation* on themselves and their families, even with the *Koran* on their heads, is in fact no *oath* at all; and that, if, having sworn that they *will* speak truth, they still utter falsehoods, they can expiate their offence by certain religious austerities; but that, if they forswear themselves in regard to evidence *already given*, they cannot, except by the divine mercy, escape misery in this world and in the next: it were to be wished, that the power of absolution, assumed by the *Romish* priesthood, were at least equally limited. My inquiries into the *Hindu* laws have not yet enabled me to give perfect information on the subject of *oaths* by the believers in *Brehmà*; but the first of their law-books, both in antiquity and authority, has been translated into *Persian* at my request; and thence I learn, that the mode of taking evidence from *Hindus* depends on *the distinction of their casts*, but that the punishment of false evidence extends rigorously to all, whether an oath be administered or not; and many *Bráhmans*,

mans, as well as other *Hindus* of rank, would rather perish than submit to the ceremony of touching the leaf of the *Tulasi*, and the water of the *Ganges*, which their *Sástras* either do not mention at all, or confine to petty causes. It is ordained in the book of *Menu*, that a witness shall turn his face to the east or to the north; and, as this rule, whatever may have given rise to it, is very ancient, a revival of it may have no inconsiderable effect: according to the same legislator, ‘ a *Bráhma*n
‘ must be sworn by his credit, a *Cshatri* by his arms, a *Vaisya* by his
‘ grain, cattle and gold, and a *Sudra* by every crime that can be com-
‘ mitted;’ but the brevity of this text has made it obscure, and open to different interpretations. The subject is, therefore, difficult for want of accurate information, which, it is hoped, may in due time be procured, and made as publick as possible. In general I observe, that the *Hindu* writers have exalted ideas of criminal justice, and, in their figurative style, introduce the *person* of *Punishment* with great sublimity: ‘ Punishment,’ say they, ‘ with a black complexion and a red eye,
‘ inspires terror, but alarms the guilty only; Punishment guards those
‘ who sleep, nourishes the people, secures the state from calamity, and
‘ produces the happiest consequences in a country, where it is justly
‘ inflicted; where unjustly, the magistrate cannot escape censure, nor
‘ the nation, adversity.’

Be it our care, Gentlemen, to avoid by all means the slightest imputation of injustice among those, whom it is the lot of *Britain* to rule; and, by giving them personal security, with every reasonable indulgence to their harmless prejudices, to conciliate their affection, while we promote their industry, so as to render our dominion over them a national benefit: and may our beloved country in all its dependencies enjoy the greatest of national blessings, *good laws duly administered in settled peace!* for neither can the best laws avail without a due administration of them, nor could they be dispensed with effect, if the fears and passions of men were engaged by the vicissitudes of war, or the agitation of civil discontents.

CHARGE

TO THE

GRAND JURY,

AT CALCUTTA, JUNE 10, 1787.

GENTLEMEN OF THE GRAND JURY,

I SHOULD exceed the bounds of my duty, and detain you too long from the discharge of yours, if I were to expatiate on the great variety of business, in which your diligent exertions at the present session may be highly beneficial to the settlement; and, indeed, whilst I hold in my hand this terrible catalogue of grievous offences, which must come under your consideration, I have ample materials for my address to you, without enlarging on such cases, as may probably be brought before you, but have not yet been the subject of complaint before a magistrate.

The first crime, which appears in the calendar, and of which three persons are now accused, (the same number having been indicted last session) is the most atrocious, that man, as a rational creature and a member of civil society, can commit, Murder; but I will spare your feelings as well as my own the pain of dwelling on one of the

cases, which you will hear but too soon; a case, so horrible, that, if it be true, scarce any punishment of the offender would be too severe, and, if false, the perjured accusers deserve the utmost severity of our law; which, in regard to perjuries affecting life, is, in my opinion, too lenient. Another foul murder has been committed near *Patna*, with every aggravation of the crime both in the motive and the manner of it: but there is no *direct* evidence against the supposed murderer. The woman, who will repeat her sad story to you, actually saw her husband, a native peasant, stabbed by one soldier, while two held him; (and how highly it imports the honour of our government, that the natives be protected from the outrages of our soldiery, must be obvious to all) but the night was too dark for her to distinguish their faces. Circumstances only have induced a suspicion, that LA COSSE was the perpetrator of the crime; and they, it is true, may be fallacious; but, when many circumstances concur, they sometimes amount to proof at least as strong as the testimony of witnesses: that the prisoner escaped from the guard, who were bringing him to the presidency, he excused, on his examination, by alledging a natural love of liberty, which, he urged, was perfectly consistent with innocence; but, unless you believe him innocent, it seems the province of a petit jury to determine, whether all the concurrent circumstances indubitably prove him guilty. I proceed to offences far less dreadful in themselves, but almost equally deserving of your serious attention; for, if any thing ought particularly to affect our minds, and make us all extremely circumspect in our passage through life, it is the alarming consideration, that not only the more violent emotions of anger and hate, but even unguarded and idle words, have a tendency toward bloodshed, and not unfrequently end in it. If this be the case with men of understanding and education, what must be expected from the uncontrolled passions, unimproved intellects, and habitual vices of the low multitude? For this reason principally

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I never think lightly of the *petty complaints*, as they are called, which are brought before me: I know, that wrath and malice will have a vent; that they are better spent in a court of justice than in black and silent revenge; and that, if such serpents be not crushed in the egg, there can be no security against the mortal effects of their venom. You will attend, therefore, I am confident, even to *common* assaults; (for I need not mention such as were made with any criminal design) and consider no breach of the peace as trivial, the consequence of which may, possibly at least, be the shedding of human blood. This reasoning leads me to a subject of the highest importance to every community; and particularly (for many weighty reasons) to the inhabitants of this populous town: I mean those offences against good morals and good order, which spring from the dissolute manners of the populace, and branch out into all the disorders and evils, that can affect the comfort of social beings. *Excessive luxury*, with which the *Asiatics* are too indiscriminately reproached in *Europe*, exist indeed in our settlements, but not where it is usually supposed; not in the higher, but in the lowest, condition of men; in our servants, in the common seamen frequenting our port, in the petty workmen and shopkeepers of our streets and markets: there live the men, who, to use the phrase of an old statute, *sleep by day and wake at night* for the purposes of gaming, debauchery, and intoxication. The inebriating liquors, which are extracted from common trees, and the stupifying drugs, which are easily procured from the fields and thickets, afford so cheap a gratification, that the lowest of mankind purchase openly, with a small part of their daily gains, enough of both to incapacitate them by degrees for any thing that is good, and render them capable of any thing that is evil; and excess in swallowing these poisons is so general, that, if the state had really been lighted up at the higher extremity, as it certainly is at the lower, it must inevitably have been consumed. The mischiefs, which

this depravity occasions, it is needless to enumerate; but, until some ordinance can be framed, which shall be just in itself and conformable to the spirit of our laws (both which qualities ought to characterize every regulation in the *British* empire) the publick has no hope of security, gentlemen, but from your vigilance. Disorderly houses, and places of resort for drinking and gaming, are indictable as publick nuisances; and, though it would be the work of many sessions to eradicate the evil, yet a few examples of just punishment would have a salutary effect. You are too sensible, I am sure, of the advantages arising from a trial by jury in criminal cases, to wish for a power in any hands of *summary conviction*, which the legislature has not yet given, and which it always gives with reluctance; and I persuade myself, that the gentlemen of this settlement are too publick-spirited to decline the trouble, which may attend the execution of any useful law, whether it be necessary to prosecute offenders by indictment, or to levy small penalties by action in the Court of Requests.

Since I have mentioned *gaming*, I must add, that it is a vice produced by laziness and avarice, and leading to distress, which aggravates, instead of palliating, the offences frequently committed in consequence of it. The most common of those offences, among the lowest of the people, are *theft* and *robbery*; and, if it be true, as it was sworn before me, though not by a man who seemed worthy of much credit, that even the watch-houses in this town are the haunts of unrestrained and encouraged gamesters, we can expect little benefit from watchmen who thus discharge their important duties. In fact if we had a well ordered watch and ward in *Calcutta* (and that we have not, is become a constant subject of animadversion among the natives of higher rank) we should not have heard of robberies committed by ruffians masked and armed, such as a few months

months ago attacked a *Greek* merchant in his house, without ever being apprehended; nor of *burglaries* committed by abandoned vagabonds and night-walkers, who pass through the usual stages of profligacy, from idleness and vice to poverty, and from poverty to a resolution of invading the property of the honest; after which, if they are unpunished, they proceed from crime to crime till they close their career in blood.

Having spoken of the little credit, which I gave to the oath of a low native, I cannot refrain from touching upon the frequency of perjury; which seems to be committed by the meanest and encouraged by some of the better sort, among the *Hindus* and *Muselmans*, with as little remorse as if it were a proof of ingenuity, or even a merit, instead of being, by their own express laws, as grievous a crime as man is capable of committing. I cannot name this offence without emotion; for (besides its natural enormity) it renders the discharge of our public duty both difficult and painful in the highest degree: it is not in causes, where *Hindus* or *Muselmans* give evidence, that a fact is proved, because it is sworn; and we are compelled to take a greater latitude in judging by probability and a comparison of circumstances, than the strictness of *English* judicature in general allows. With respect to the *Muselmans*, we can establish no stronger sanction than the oath now administered; but, as to the *Hindus*, I cannot relinquish my opinion, that the most solemn possible form ought to be adopted, either by ordering all the witnesses, who are to give evidence, to be previously sworn by the *Bráhma*n, our officer, in one of their own temples, or by swearing them in court before consecrated *fire* brought from some altar of acknowledged holiness. The charter requires *the most binding form*, and we know from our own *Bráhma*n, that the present form is *not* the *most binding*; so that a doubt might be raised even on the legality of an indictment for violating an oath so taken. Until some change can
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be made (and change even from wrong to right has always its inconvenience) we must not forget to remind all *Hindu* witnesses from time to time, that false evidence even by their own *Shástra's*, is the most heinous of crimes, and to adjure them by the name of GOD, (as a learned *Bráhma*n at *Nediya* assured me we were empowered to do, without shocking their prejudices) to speak the whole truth and nothing but the truth: but such, after all, is the corrupt state even of their erroneous religion, that, if the *most binding* form on the consciences of good men could be known and established, there would be few consciences to be bound by it; and, without exemplary punishments of actual perjury, subornation of it, and attempts to suborn, we shall never be able to administer justice among them with complete satisfaction. It has been urged, with specious good nature, “that punishments lose their effect by a frequent infliction of them; that pain becomes familiar to the evil hearted; that every villain indulges a hope of suffering in company; and that it is dangerous for the community to know, how few honest men are among them:” but this is the language rather of benevolent speculation, than of attentive observation and experience; for, as long as men exist in a state, who, without fearing GOD, fear the law, and without horror of a crime, tremble at the thought of punishment, so long it is necessary, that all crimes clearly proved be certainly and strictly punished; while few, it must be hoped, will suffer, and all will be warned. Could any thing induce me to wish, that you, gentlemen, were detained here from your other business longer than a week, it would be a desire of bringing to *immediate* pain and disgrace, such witnesses as may perjure themselves during the remainder of the session.

That you sit only twice a year is also (if you will allow me to speak openly) an evil which I frequently lament; since the necessity of keeping accused persons within the reach of justice obliges us to confine
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in prison those who are charged with offences not bailable, or who are unable to find sufficient bail; so that, if a charge is made soon after the end of your sitting, the accused must remain six months in custody; although it may afterwards be proved, that the accusation was suggested by malice and supported by perjury. Such cases, we must hope, very seldom occur; but so long an imprisonment, before conviction or even indictment, is not conformable to the benignity of our law: and permit me to request, that if any complaints be made to you of exactions or cruelty in the jailor and his servants, or of their loading prisoners with irons, except where there is imminent danger of an escape, especially if it be done with a view to extort money, you will pay a serious attention to the evidence adduced; so that our nation may never be justly reproached for inhumanity; nor the severest of misfortunes, loss of liberty, be heightened under our government by any additional hardship without redress.

CHARGE
TO THE
GRAND JURY,

AT CALCUTTA, DECEMBER 4, 1788.

GENTLEMEN,

IF the unremitted vigilance of magistrates, the diligent attention of jurors, the approved excellence of our criminal laws, and the due infliction of adequate punishments, could prevent the commission of crimes in this great and increasing capital, I should not hold in my hand so long a catalogue of terrible offences, which are believed to have been committed within the last six months by persons under our jurisdiction; offences, which comprize nearly all, that *can* be committed against the publick *justice, tranquillity, convenience, and trade*, or against the *persons, houses, and property* of individuals, in protecting which the publick is essentially interested. To discourse at large on each of those heads, as they occur to me on inspecting the calendar, would certainly be superfluous; but it would ill become me to pass them over in silence; for the principles of our criminal jurisprudence, and the cases, in which they are applied, may not be fresh in your memories; and it cannot be reasonably expected, that you should study, as lawyers, the reports and

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treatises, however excellent, of KELYNG and HALE, FOSTER and BLACKSTONE, or the voluminous works, however accurate, of modern compilers: I will take, therefore, a middle course, and confine myself to short observations on those crimes only, of which the prisoners are specifically accused, so as to assist your recollection, and guide your judgement in finding or rejecting the several bills, that will, I know, be presented to you.

It gives me, in the first place, inexpressible pain, to see no fewer than *four* persons charged with so abominable an offence as corrupt *perjury*, or the *subornation* of it; and one of them, I observe with horror, is an *Armenian* by birth, and, in name at least, a *Christian*: now, if all laws, human and divine, if all religions, the many false and the one true, be thus openly defied, we must abandon all hope of administering justice perfectly; and, as much as I blame severe corporal punishments, especially those which mutilate the offender's body, I must recommend a degree of severity, if the wickedness of man cannot otherwise be restrained. The cruel mutilations, practised by the native powers, are not only shocking to humanity, but wholly inconsistent with the mildness of our system; nor do they conduce even to the end proposed by them; since it is the *certainty*, not the *cruelty*, of punishment, that can operate on the fears of those, who fear nothing else: the old *Hindu* courts, from a fanciful notion of punishing the offending part, and depriving it of power to offend any more, would have cut out the *tongue* of a perjured man and amputated the *hand* of a thief or a forger; while the *Mohammedan* punishments, inflicted at this day in the *Asiatick* dominions of *Britain*, are not less horrid, but have less appearance of reason. Happily we can see no such horrors in *Calcutta*; but, as our house of correction, either through neglect or through want of laborious employment, would, I fear, be a house of laziness, as transportation is out of the question, and as the pillory alone would hardly
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be thought shameful to those, who have no sense of shame, it will be advisable to indict perjured men on the statute of ELIZABETH; since, besides imprisonment for six months, it inflicts, on default of paying a considerable fine, the punishment of having *both ears nailed to the pillory*, which, though painful at the time and perpetually ignominious, neither cruelly mangles the human frame, nor deprives the offender, should he repent and be industrious, of gaining a subsistence by honest labour. Such indictments will be the less exceptionable, because, if any case should happen to be out of the statute, there may be a conviction, I presume, and consequently a sentence, as at common law.

Whatever be the cause, I cannot but believe, since it has been sworn before me by an *Englishman*, who demanded security for the peace, that there are streets in this populous town, and one especially near the *Faujdâr's* house, through which it is extremely perilous for quiet men to pass after sunset: they are inhabited, I am told, by low *European* tavern-keepers of all nations, and one of them, STEFANO an *Italian*, will be accused before you of a violent assault in his own tavern, of which the probable consequence might have been the death of an unoffending man. By the common law, which is always clearer and generally wiser than any statute, the keepers of taverns, who permit frequent disorders in them, or harbour persons of bad repute, may be indicted and fined as for a *common nuisance*, and open gaming-houses are equally offensive in the eye of law, as the haunts of profligate miscreants and a temptation to pernicious vices; yet both are now so numerous, that a peaceable native can hardly sleep without disturbance from brawls or affrays, and dread of nocturnal robberies. Venerable fathers of families have lately complained to me with extreme anguish, that their sons had been ruined in those seminaries of wickedness; yet so relaxed are the principles even of the richer natives, that actions have been brought by an opulent

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Hindu

Hindu for money advanced solely to support a common gaming-house, in the profits of which he had a considerable share; and the transaction was avowed by him with as much confidence, as if it had been perfectly justifiable by our laws and by his own. From whatever cause those disorders proceed, whether from illicit gains accruing to unauthorized licensors and protectors, or from wilful negligence in the low servants of those, who are intrusted with the office of high constables, they are destructive to individuals, injurious to the publick, and deserving of your serious investigation.

Cheats, of which two or three appear next in the calendar, are usually reckoned offences against *publick trade*: to this head are also referred those deceitful practices and artful contrivances, by which even a wary individual may be defrauded of his money or goods; but you will consider some kind of artifice or device as essential to the criminality of a fraud; since a mere palpable falsehood, which no man of ordinary understanding would implicitly believe, and an imposition by means of it, which any man of ordinary prudence would have avoided, seems no crime against the publick, who cannot feel themselves injured, because a fool happens to suffer by his folly. There is an offence, which most seriously affects the trade of the community, and which the common law punished for that reason with fine and imprisonment; I mean that of buying the *whole* of any commodity *with a design to raise the price of it at the pleasure of the buyer*; since, if that were allowed, the price of commodities would entirely depend on the discretion of one or two wealthy individuals: it appears from an ancient record, that so base a *design* is equally punishable, whether any of the commodity engrossed be actually resold, or not; and a combination of several rich men with so bad a view would, I doubt not, be held a misdemeanor injurious to *publick trade*. Reason applies this principle to the engrossing
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of *rice* and other *grain*; but good policy forbids the application of it in practice, especially in these *Indian* provinces; for if, in the time of a mere dearth, such engrossers were punished and their hoards dissipated, no resource would ordinarily be left against future calamity, and a second bad season might cause all the horrors of a famine: but *coined silver* is a commodity of a less delicate nature; and, though the actual quantity of it in *Calcutta* may have been reduced by various causes, yet there is just ground for a suspicion, that the artifices of several combined and wealthy *Sarràfs*, or money-changers, have raised the discount, on the exchange of *gold mohrs* for silver, to so enormous a degree as to affect all commercial transactions in *Bengal*. Now, though it be difficult to give positive proof of such *intentions* and *combinations*, yet, if legal evidence of them be fairly obtained, the dread of imprisonment would operate more forcibly on the monied natives, especially the *Hindus*, than the fear of a pecuniary mulct or of publick censure.

On the rules of law concerning *homicide*, we have unhappily had frequent occasions to deliver our concurrent opinions; but, a fatal error seeming still to prevail, that *an actual intention to kill* is essential to the crime of *murder*, I will recapitulate in few words the doctrine, on which I formerly enlarged. When you have certain evidence, that the person, who is said to have been killed, is *really dead* (for that fact should in the first place be incontrovertibly proved) you will consider, whether any *act* of the person accused was either the *cause*, or the *occasion*, of the death; next, whether it was a *lawful*, or an *unlawful*, act, and, if legal in itself, whether it was *reasonable* and *moderate*, or *violent* and *cruel*; if *illegal*, whether it was done in a sudden burst of passion *and* with a weapon unlikely to destroy life, or *coolly and with apparent malignity of disposition*; for, in that case, if death ensue by an act, of which it might, though *not actually intended*,

intended, be the *probable consequence*, the offence will certainly be *murder*; the essence of which is not merely a *design to kill*, but a *depraved and malignant heart* evinced by the coolness of the deed, or the danger of the instrument used, or any other circumstances, by which *malice* may plainly appear: you will too soon be called upon to apply these principles in a variety of cases; and it surely imports our honour as a great nation, and becomes our character as just men, that whoever deprives another of life should be openly tried, and either acquitted or condemned by those laws, from which he would have sought protection, if he had himself been injured.

Several natives have been committed for *burglarious entries* accompanied, in most instances, with actual *theft*; and, since the petit jury may in those cases convict of the *larciny* alone, if the proof of a *burglarious* act be deficient or doubtful, it will be right, as in cases of homicide, to find your bills for the *capital* felony, when the evidence before you shall fairly support the charge; but on *simple* burglary, that is, when the felonious intent has not been executed, I must offer a few short observations. There are five ingredients in this offence, according to the five parts of its well-known definition, and relating to the circumstances of *time*, *place*, *breaking*, *entry*, and *intent*: the time must be *night*; the place, a *dwelling-house*, or *parcel* of it; the *breaking*, either with some degree of *force*, or by *special implication*; the entry, with *part of the body* at least, or with an *instrument* used by it; and the intent, to commit a *felony*. In respect of time and intent the law is *very strict*; rather less strict as to the place; and *still less*, it should seem, as to the breaking and entry; now, in the case of HERI and SANCAR (whose crime, if they really be guilty, was highly aggravated by the gross violation of their duty as publick watchmen) you will probably have no doubt in regard to the *time* and *place*,

place, and very little as to their *intent*, if you believe that they had rubbed their faces and bodies with white powder to look like *Europeans*; but, as to the *breaking* and *entry*, there are some doubts, which nothing but full evidence can remove. They were caught, it has been sworn, on the *terrace* of a detached house inhabited by a *Hindu*, and built in the fashion of *Bengal*; and it is now believed, that they *began* with climbing into a small room, or recess, communicating with a private apartment, and used for the purposes of a water-closet in a *London-house*, but enclosed by a breastwork of bricks, and open at the top, the nature of the place in this climate not admitting, without extreme inconvenience and even danger to the family, of such a covering as would exclude fresh air: the cornice over the door of the apartment was broken, together with part of the wall, either by accident in laying hold of it, or by design to facilitate the ascent on the terrace, which was itself enclosed by a balustrade. Although a terrace on a housetop, in the warm regions of *Asia*, has been immemorially considered as an apartment of the house both for conversation in the evening and for slumber at night; although, like a varanda surrounded by rails or parapets, it is as much enclosed as the nature and design of it will allow; and although a nocturnal invasion either of a terrace or a varanda, in a country where doors and windows must be left open night and day, would occasion terror and generally be punished with instant death, if the assailed were better armed than the assailant; yet, in favour of life, it may forcibly be urged, that the penal law of *England* ought not to be extended, by mere argument and analogy, to varandas and terraces; but whether the *place*, which has been described, was actually a room in the house, and whether the prisoners broke and entered it with a felonious intent, will best be determined by the petit jury; while the court will consider, whether an *entry* by night into such a place and with such a design be not as burglarious in the eye of our law as a mere descent by a chimney in *England*. As to the defence of the two watchmen, that they

they were only discharging their duty, instead of violating it, the law will never suffer itself to be insulted by such pretences; and, if it be proved, that VISHNURAM, (who attempted by the authority of the Company's badge to procure the release of his son-in-law and the associate, and even gave reason by his menaces to believe, that he meant to rescue them), *knew of the felonious design*, you will consider him as an accessory *after* the fact; or, as a *principal* in it, if he was constructively *present* by keeping guard near the house, while they broke and entered it. On this occasion I impute no blame to the two gentlemen, who act as high constables in *Calcutta*, except that they do not seem to have taken, as they certainly should have done, from the low natives, whom they employ, sufficient security for their good behaviour and for the faithful discharge of their duty.

The *Armenian*, whom I mentioned under the head of perjury, being also charged with having *forged* the bond, to the due execution of which he positively swore after strong and repeated warnings by an interpreter of his own nation, the great question again rises, "Whether
" the modern statute, which makes forgery capital, extend, or not, to
" these *Indian* territories." On the fullest consideration, I think the negative supported by stronger reasons than the affirmative: the statute in question seems to have been made on the spur of the time; its principal object was to support the paper-credit of *England*, which had just before been affected by forgeries of bank-notes; and it contains expressions, which seem to indicate a local operation; the punishment, which it inflicts, goes beyond the law of nature, and the *British* laws appear to have been introduced into *India* by a charter preceding the statute, so far at least as to bring this country within the general rule. Nevertheless, I still think the question debatable: I see it, as I lately told the senior judge, who agrees with me, rather with the light of the rising, than with that of the meridian, sun; and the learned argument of the
judge,

judge, who differs from us, has rendered the point sufficiently doubtful, to make me wish for a decision of it by the highest authority at the fountain-head of justice: yet the reasons urged on the opposite side so far turn the scale, as to justify me in recommending an indictment on the statute of ELIZABETH, especially as a conviction on the modern statute would not at present be followed by execution; and if the person convicted should submit to a long imprisonment rather than exercise the power, which would be given him, of appealing to the king in council, it might end in his escaping any punishment, or in his being punished capitally at so distant a time, that the offence might be forgotten by the publick, and the great object of all penal statutes wholly frustrated.

Whenever it shall be my turn to address you, gentlemen, I will never desist from recommending to your serious attention the state of the gaol, the condition of the prisoners; the conduct of the gaoler and his servants. The facility of escaping from it has, I presume, since your memorial to the government on that subject, been wholly or nearly removed; but, even if the construction of the prison should render escapes easy, that would be a reason for the sheriff and his officers to increase their vigilance in proportion to its necessity, instead of abating their diligence by violating positive law: now I hold it a violation of positive law to hamper any prisoners with irons before conviction, unless they behave in an unruly manner, or by some attempt or overt act induce a just suspicion of their intention to escape; nor ought any discretionary power to be left to such persons, as must have the care of gaols, who are always men without education, and might easily be tempted to set a price on light fetters, or on a total exemption from them.

I conclude with observing, that, as three or four magistrates cannot possibly secure the peace of this important capital, so it is morally impossible, that all the petty offences committed in it from day to day can be legally and speedily punished, with due terror to other offenders, while two sessions only are holden in each year; and with expressing my firm persuasion, that, if any legislative provision should increase your trouble as grand jury-men, and that of the gentlemen, who serve on petit juries, you will all remember, that a degree of trouble is the price, which we pay for our common liberty; and that our common liberty, for which no price would be dear, will then only fall, when our constitutional mode of trial shall be superseded by summary jurisdictions, but will totter, when *Englishmen* of education and property shall cease, through their love of ease, to show by their personal exertions a warm alacrity for the support of it.

CHARGE

CHARGE

TO THE

G R A N D J U R Y,

AT CALCUTTA, JUNE 10, 1790.

GENTLEMEN,

I CANNOT have the pleasure, which I expected, of informing you, that few prisoners are named in the calendar: fewer, indeed, appear in it, than we have lately seen at our sessions; and among the offences, with which they are charged, I perceive none, that seem to call for particular notice; none, that can here prove capital, except a case or two of felonious homicide and three or four of burglarious entries, on which I shall incidentally touch; and there certainly are none, on the nature and degrees of which you have not, on former occasions, received ample instruction from charges delivered by my brethren or by myself. It might therefore seem, that no materials occur for a charge at the opening of the present session, and that it might be sufficient to dismiss you, with declaring my perfect confidence in your vigilant attention to the whole extent of your duty; but, since it has been usual to detain you a short time with the formal discourse, I take this opportunity of doing that, which has not, I believe,

I believe, been any where done in any discourse either spoken or written, and which you will find, I am persuaded, neither useless nor unacceptable: having no dislike to novelty, when utility accompanies it, I propose to give you a concise, but, as far as I am able, a perspicuous, comment on the general form of the Oath, which you have taken, and on every material word, which occurs in it; nor will you imagine, that it is too clear to need illustration, when I assure you, that I did not myself understand it entirely, till I had very attentively read and very fully considered it; and that parts of it have appeared ambiguous to grand juries themselves, I know from the questions which have occasionally been put by them to the court, and often privately to me by some of them, who were my intimate friends. You will not hear from me any common topicks on the sanction of oaths, which to men of education and principle would be needless and unbecoming; nor any display of antiquarian literature, which would here be idly ostentatious; nor any subtil and abstruse doctrines, which my subject will by no means require; nor any exhortation to the conscientious discharge of your office, which would, I know, be superfluous: it has truly, indeed, been said, that "He, who admonishes another to do that, which the other actually does, rather commends than exhorts, and only conveys applause in the form of an admonition;" but I wish to avoid addressing you personally: I shall speak to you as to a grand inquest in the abstract, and offer such rules as may be applied to practice by all, who shall at any time serve their country in the character, which you now sustain. It is not as a casuist, a metaphysician, or an antiquary, but as a lawyer merely, that I shall explain the true sense of your oath, at least as I understand it; and I begin with a ruling principle, universally admitted, which you may consider as a key to the whole form, and which to some parts of it will be clearly and forcibly applied.

The intention of that power, which imposes an oath, is the sole interpreter of its meaning, the guide of those, who take it, and the measure of their duty. Now, since your oath is imposed by the law, the intent of the law must be the pole-star, by which you are to direct your course. Your obligation in conscience depends, it is true, on your sincere opinion of that intent; but, since the intention of the law is frequently so deep as to elude a superficial view, you are bound in conscience to examine it minutely, and to seek assistance from those, whose office it is to discover and to declare it. From the imperfection of all human things, it is not always possible to avoid ambiguity of language; and the intention of the law may sometimes be larger, sometimes narrower, than the verbal expression. Of an intention more extensive than the words I will give you one strong example: we take a prescribed oath, as judges, that “we will to the best
“ of our knowledge, skill, and judgment, *duly* and *justly* execute our
“ offices, and *impartially administer justice* in every cause, matter, or
“ thing, which shall come before us.” To act *duly*, *justly*, and *impartially* seems no more than what is required of Arbitrators, and might be thought consistent with judgments given according to our own opinions of what is just and right, or, in other words, according to our honest discretion; the very mode of judging, which, from a wise distrust of human integrity, it is the chief use of established law to preclude; and, since the constitutional, or publick, law, of which we know the intent, was the imposer of our oath, we interpret it conformably to that intent, and hold ourselves bound, on questions of *fact*, to give *true judgments according to the evidence*, and, on questions merely *legal*, to decide *according to law*; even though, as men, we may in particular cases think the law too austere or too narrow, and may wish it changed by the only power that can change it; for we are to declare the law, not to make it. That the intent may be less extensive than the popular sense of the words

words used, we shall see in your oath, when we come to the application of this introductory maxim.

Your oath, as you may have observed, is a single period consisting of four members or divisions; and it is a *period* correctly so called, or in the form, as it were, of a *circle*; the awful phrase at the conclusion being manifestly connected in sense with the beginning of it: "So may
" GOD help you, as you shall duly perform the promises, which you
" call on him to attest, and which are distinctly enumerated." The phrase, which makes the whole period *conditional* (for it is not *imperative*, as the first words of each division might seem to imply) is placed at the end, for the purpose of your kissing the gospel, as soon as the name of GOD has been pronounced, and thus making the whole oath your own, though it has only been read to you by the officer. I called it an awful phrase, because, though in form it invokes the supreme being as a defender, yet by implication it addresses Him as an avenger; and, though it openly expresses a benediction, yet it virtually implies an imprecation; the expression could not be full, without raising too violent and too painful an image; and silence, on this occasion as on many others, is more sublime than the strongest eloquence. The period thus connected has this apparent meaning: "May the divine aid be
" granted to you, if the promises now made be performed; and with-
" drawn, if they be violated!" than which a sublimer idea could not enter the mind of man; since it is a clear deduction of reason, that the bare suspension of the divine energy but for a moment would cause the instantaneous dissolution of all worlds, and the tumultuous extinction of all, who inhabit them. You will readily believe, that I disclaim all idea even of the possibility, that you should knowingly violate such promises; but (lest any part of my subject should pass unnoticed) it is proper to observe, that a distinction has been taken in the secular or external forum, which the internal, or that of conscience, could never have

have made, between an oath, which is *assertive*, and relates to some fact, past or present, and an oath, which is *promissory*, and relates to some future act. A narrowness, perhaps, in the old definition of perjury gave rise to the opinion, that it can only be committed in a legal sense by a false denial or by a false assertion; but it must surely appear strange, that, when half the business of our civil courts consists in enforcing the performance of promises or giving damages for the breach of them, our criminal courts should think it less than perjury to violate in any case, either by word or deed, a promise confirmed by the strongest and holiest of sanctions: reason surely dictates, that perjury may be committed both *in* the act of swearing by a false assertion, and *after* the act by wilfully violating *in any respect* an oath previously taken; and the consciences of men ought not to be ensnared by subtil distinctions without any substantial difference. On this point, however, I need not insist; and I only mentioned it, because it applies to the principal verbs in the four divisions of your oath, on which I now proceed to enlarge.

The first condition is, that *you shall diligently inquire, and make true presentment, of all such matters and things, as shall here be given you in charge, or otherwise come to your knowledge touching this present service.* *Inquiry*, or search and examination, is a word completely understood in its popular sense; but it is here used with technical propriety, since you are called *inquirors* by some old writers, and the grand *inquest* by many of the moderns; and in this sentence the use of it is the more proper, because it not only comprehends the *examination* of witnesses on bills presented to you by third persons, but also the *investigation* of those matters, which may have attracted your notice without the intervention of prosecutors, and which you may yourselves present to the court, after bills have been prepared at your request. With a similar design of including both modes, the word *presentment* (as the result of
your

your *inquiry*) immediately follows; since that word, which is very comprehensive, extends to *indictments* by private individuals in the name of the king, and to those, which are commonly distinguished as *presentments* by the grand jury.

What the law understands by *true*, we shall presently see, when we come to the fourth and last member of the period; but it is of great importance to explain the legal meaning of *diligence*; and I am clearly of opinion, that it means in your case, *the same degree of care and industry, that each of you would severally apply to his own temporal affairs, or all of you collectively to such worldly interests as might jointly concern you*. I assume with confidence, that all subjects of the same dominion are engaged to one another by an *implied contract*; a principle equally clear and useful, and leading to conclusions of the highest moment in morality and politics. Some writers on ethics, who have been taught, that popular principles are not the way to preferment, deny it; and, after deriding the notion of a contract *without a name*, challenge us to produce, a well-known forensic name for the *social contract*; but not to urge, that many valid and useful contracts are *innominate*, the very name, which they call for, is comprized in the epithet, which they use: it is the contract of *society* or *partnership*, differing only in extent, but not in kind, from the civil and private association universally known and practised. Now, since a partner both receives and confers a benefit, such *diligence* is required of Him, as he would use in his own concerns, and the same diligence is demanded of you for a similar reason; not less, because you are benefited by the laws of your country, under which you act, and natural equity prescribes, that every benefit should have an adequate return; not more, because, at the same time, you confer a benefit, and natural equity forbids, that a benefit should be burdensome to those who confer it. Our law, which approximates to the perfection of reason, imposes

no

no burden, that is unreasonable ; and, if any of you doubt in particular cases (as some in your situation have naturally doubted) what ought to be the measure of your care and attendance, you need only ask your own hearts, what degree of them are due to your private affairs of importance.

Next come the *subjects* of your inquiry and presentments under two heads ; first, such as may be given you in charge ; and, secondly, such as may come to your knowledge independently of the charge, but relating to the present business, that is, to the legal redress of all publick wrongs, or the administration of criminal justice. In old times it was usual, for all the articles of inquiry to be read at some length as part of the charge, after a general exhortation by the judge ; and, if that mode had continued, the latter part of this division, as included in the former would have been superfluous ; whence we may infer, that the present *form* of your oath is not of the highest antiquity, though the following member of it be certainly very ancient, and the substance of the whole may be traced back to the time of the *Saxon* princes.

Of the second condition, that *you shall keep secret the king's counsel, your own, and that of your fellows*, the meaning might have been expressed with more perspicuity. To declare at an improper time, and in an unfit place, what persons have been indicted, might give traitors, conspirators, and other great offenders an opportunity of absconding, before they could be apprehended, or impel them perhaps to strike some desperate blow ; and such a premature disclosure might defeat the purposes of the law. It appears from the book of *Affises*, that in the reign of EDWARD the Third a grand juror was indicted *as a felon* for such a discovery, but, as he was acquitted, the law remained undecided ; and, though justice SHARDELOW declared, that in the opinion of some judges, a discovery by an indictor might be *treason* (meaning, I presume, where

a *traitor* had been indicted, and the grand juror intended to facilitate his escape) yet the wisest judges in latter times have exploded and refuted the doctrine in GEORGE's case, and hold such a discovery to be merely a great misprision accompanied with the guilt of perjury. The *counsel* or *purpose*, of the king is formally comprised in every prosecution: it becomes in part your counsel, when you have unanimously concurred in finding the bill; and, when it has been found by a majority of your whole number, it is their counsel, which the dissentient must not disclose; for a grand juror, therefore, to reveal either his own acts and opinions, or those of his fellows, might have an effect equally dangerous; and, though the generality of your promise might, if its principal scope only were considered, be restrained to particular cases, yet it is the safer way in all cases, to maintain an impenetrable reserve on all business begun or concluded, that is, on the form of the indictment, the evidence in support of it, and the fact of its being found or rejected; except when you bring in your bills or have occasion to consult the court.

Thirdly, you implore the divine help on condition, that *you present no person from hatred, malice, or ill will, nor leave any thing unpresented from fear, favour, or affection.* These words are a paraphrase on a stronger and more elegant form preserved in the law of ETHELRED, by which the grand inquest were compelled to swear, that *they would accuse none, whom they believed innocent, nor conceal any, whom they thought guilty.* To be free from partial affections and preconceived opinions, from resentment and from regard, from all prepossessions, that might incline you to reject bills, or to find them true, is a duty common to all who are concerned in the administration of justice; and, though different motives are enumerated by way of example, yet the plain intent of the whole sentence is, that, from no motive whatsoever, neither from the darker passions of envy or wrath, nor from the
amiable

amiable affections of compassion and benignity, shall you bring the guiltless into trouble, nor screen probable guilt from a full and impartial trial. You will remember and emulate on this occasion the sublime attributes of your guide, the Law, which cannot be more strongly expressed, than in the manly diction of the high minded and eloquent ALGERNON SIDNEY: "The good of a people ought to be fixed on a
" more solid foundation than the fluctuating will or fallible under-
" standing of one or a few: for this reason law is established, which
" no passion can disturb. It is void of desire and fear, of lust and
" anger; it is pure dispassionate mind; written reason, retaining some
" measure of the divine perfection: it enjoins not that, which pleases
" a weak, frail man, but, without any regard to persons, commands
" what is good, and punishes evil in all, whether noble or base, rich or
" poor, high or low: it is deaf, inexorable, inflexible."

The preceding member of the period containing a *negative* condition, you are lastly, presented with it in *positive* form; that *you shall present all things* (not partially, but) *truly as they come to your knowledge, according to the best of your understanding*. Here we return to the phrase, with which we began, of a *true presentment* which you are bound to make, of all things relating to the business of the session, as truly as you are enabled to make it, according to such evidence as you have before you, and by such an exertion of your intellectual powers, as all sensible men would apply to their own concerns; for so the law interprets in your case the superlative *best*, not meaning, as in our, (for reasons not applicable to your) that painful and intense application of mind, with which a mathematician solves the most abstruse problem, or a judge decides the most intricate cause. The only remaining doubt is, what the law means by a *true presentment*; for what the law means, must be the rule of our interpretation, and the measure of your duty. Sir MATTHEW HALE, whom I always name with applause, was of
opinion,

opinion, that if *probable* evidence be given for the king, the grand inquest ought to find the bill *true*; for it is but an accusation, that is, the denunciation of a person, who, as they verily believe, ought to be tried: this opinion has been attacked with some warmth; because the grand jury are sworn, it is said, *to present the whole truth*, and, it is added erroneously, *nothing but the truth*, and ought, therefore to have *the same persuasion*, that an indictment is true, with the petit jury, who take the same oath. I conceive the opinion of that great judge to be, if we rightly understand it, consonant to law. He could not mean a remote and light probability, or slender surmise, but used the word *probable*, in a strong and emphatical sense, for an approximation to the truth as far as the grand jury can safely assert it. Probability has many shades or degrees, from the weakest, which borders on negation, to the strongest, which touches the confines of certainty; and he uses the positive degree *intensively*, as the word *diligent* is used by the Roman lawyers: that you, who hear only one side, should have *the same persuasion* with the petit jury, who hear both sides, is impossible; and the law requires no impossibility. Nor is the word *true* invariably opposed to *false*, but often, both in popular and technical language, means *correct* or *exact*, *faithful* or *just*: a verdict is *true*, when it is *exactly conformable to the evidence*, though many such verdicts have proved, in a strict and logical sense, unhappily false. To prevent mistakes the word is qualified, in the oath of petit jurors, by the phrase *according to the evidence*, and in yours by the words as *the things shall come to your knowledge*. The law intends generally, that the guilty shall be punished and the innocent justified, but particularly, that you, gentlemen, should find on good grounds a just accusation, and that the petit jury, having heard both accusation and defence, should weigh the whole evidence and give their *verdict*, or *true saying*, according to the preponderant scale. LAMBARD applies the word *verdict* to an indictment, because it is *true*, as far as evidence on
one

one side can establish the truth. The result of my reasoning is, that you should be persuaded, as far as you have knowledge, that the accusation is just, and the bill true in *substance*. As to mere *form*, it is not the intention of the law, that you should precisely ascertain the truth of it: for instance, the offence must be laid on a certain day before the session, which is one day in law; but on what particular day is of no consequence; and what the law pronounces immaterial, cannot be material in conscience of which the law, as we have established, is the guide. Again; the law supposes, that atrocious offenders must have abandoned the fear of God; yet a wretch, who had abandoned every thing else, confessed before his execution in the north of *England*, that, in the very moment before he murdered a sleeping man, he meditated on the awfulness of the divine Majesty, and implored on his knees a deliverance from temptation: had such a mixture of religion and wickedness been proved before the grand inquest, they would not surely have thought themselves bound by their oath, to put a negative on the formal phrase in the indictment. Let us now return to the calendar: when you find a bill for murder or burglary, as a regard for publick justice, and a tenderness for the party accused, may in many cases require, you conform to the intention of the law, and are not understood to assert the absolute verity, but to prefer a just accusation; leaving the petit jury, with the assistance of the court, to ascertain the precise degree of guilt; for it is neither consistent with the strict justice of the law, that a great offence should be stifled, nor with its provident benignity, that a man, who must be acquitted and discharged if his case be found specially, should be liable many years afterwards, when all his witnesses may be dead, to an indictment for a capital crime. Nevertheless, if you believe on the evidence for the prosecution, that there was no malice, or that any one ingredient of burglary was out of the case, you are at liberty, no doubt, to reject the bills, and to call
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for others more agreeable to the truth ; or, if you think the witnesses unworthy of credit, or their tale undeserving of belief, you may reject them altogether ; but though in most cases you have a discretion, which the secrecy of your deliberations and resolves naturally encourages, yet you will remember, that it must be a conscientious and legal discretion ; like perfect historians, you will not fear to say any thing that is true, nor dare to say any thing that is false ; but will so act in every part of your duty, that the innocent may approach this tribunal without apprehension of danger, and the guilty leave it without complaining of injustice.

CHARGE

CHARGE TO THE GRAND JURY

CHARGE

TO THE

GRAND JURY,

AT CALCUTTA,

DELIVERED JUNE 9, 1792.

GENTLEMEN OF THE GRAND INQUEST,

IF any point of criminal law, a full discussion of which might serve to guide you in finding or rejecting bills, or in desiring new ones to be prepared, either arose from facts within my private knowledge or could be collected from this calendar, you would not find me reluctant, merely for the sake of saving my own trouble or your time, in enlarging on it copiously to the best of my abilities; but no such point really occurs. There are only two commitments by myself, and those in cases of so little moment, (though it was impossible to pass them over without notice) that I had no doubt of bail being given by the parties committed; and, as to the treatment of prisoners before conviction, (a subject, which I always had much at heart) I have the pleasure of believing, that the keeper of the prison is fully apprized of his duty on that head, and would on no account apply any rigorous mode of confinement to persons, whom the law presumes innocent and only detains for a fair trial, unless they should prove intractable and riotous, or had attempted an escape. As to the calendar, it specifies only twenty-six
new

new commitments, the other persons named in it having been indicted at a former session; and of that number, three are cases of homicide; two, of perjury; and one, of robbery; besides which there are several aggravated assaults, grand larcinies, and cheats or criminal frauds; offences, on which the law (as far as you are concerned in knowing it) is either so clear in itself, or has been made so clear by concurrent opinions delivered from this bench, that it would at present be superfluous to expatiate on it: the rest are *petit larcinies*, *common assaults*, and *inferiour misdemeanors*; the comparative number of which in this calendar suggests one topick, which I will very shortly discuss; requesting you to be assured, that I intend no disrespect to any one living, even if my opinion should differ (which I do not know) from that of others present or absent: much less do I mean to insinuate, that you can fail to pay the utmost attention even to the most trivial cases, that can be brought before you; but, since the topick seems to me of great consequence, I shall enter upon it without reserve; not imperiously obtruding my judgement on yours, but calmly reasoning with you, as a man, who loves his country, should reason with men, who equally love it.

This then is the point, which I engage to maintain: that no penal case, how insignificant soever in itself, is below the serious attention of a grand inquest, who cannot but set a just value on our incomparable mode of trial by jury; because, if they once convince the publick, that they think slight offences below their notice, the necessities of that publick, to whom a number of small crimes are a great evil, will oblige them to wish for summary jurisdictions; and every summary jurisdiction is a slur on trials by jury, and consequently a step towards establishing arbitrary power.

It is agreed by all, who have coolly and impartially studied our noble constitution, as declared by many statutes from the great charter to the
bill

bill of rights, all which, you know, are solemn recognitions of our ancient publick law, that three peculiar advantages are conferred by that sacred law on the *people of England*, or on *all subjects, who are not noble, but may, if they please, be independent*; first, a distinct unalienable third share of the legislative power; next, a right, coupled with a duty, of keeping and using arms for the defence of their persons and habitations, as well as of their several counties, when the sheriffs shall call for their aid; thirdly, the right of being tried, when impleaded or accused, by their equals freely chosen, instead of appointed officers, to whom they cannot except. Now, should the time ever come (may it long, very long, be averted!) when the servants of the crown, through the blandishments of that patronage, with which they are usually intrusted, shall obtain over both legislative houses an influence limited only by their prudence in exerting it; and should the day ever come (which to me would seem no less disgraceful) when the counties of *England* shall be wholly unable to defend themselves against riots, insurrections, or invasions, without the support of a standing army, you must be sensible, that, in those events, the trial by jury would be the only anchor left, that could preserve our constitution from total shipwreck. Great then must be the importance of encouraging and cherishing to the utmost a mode of trial so truly inestimable; and you will allow me here to recite a passage from Sir MATTHEW HALE, of whose character, taking it all in all, we may very justly say, that it has never been equalled: “ I have seen, says that experienced
 “ and virtuous man, I have seen arbitrary practice still go from one
 “ thing to another: the fines upon grand inquests began; then they
 “ set fines upon the petit juries for not finding according to the
 “ directions of the court; afterwards the judges proceeded to fine jurors
 “ in civil causes, if they gave not a verdict according to direction
 “ even in points of fact.” The instance given by him is very strong; but it is the principle, which I apply; and we may thence infer, that,

if any acknowledged subjects of *Britain* (for a different faith or complexion can make no difference in justice and right) shall be tried, convicted, and punished by a summary jurisdiction, however constituted, for *petit larcinies, breaches of the peace, and other misdemeanors, and all offences inferiour to felony*, it will be a subsequent step to try them for *grand larciny* and for all *felonies within* the benefit of clergy; after which the transition to *felonies without* that benefit will not be more abrupt than the third stride, which had actually come to the knowledge of the learned and excellent judge, whom I always name with honour and cite with confidence. The progress of arbitrary power is commonly slow at first, and imperceptible to all but the vigilant, like the creeping of a tiger at night in a brake; and it behoves us, by all decent and legal means, to guard posterity against that ultimate spring, from which nothing less than the doubtful horrors of civil war might be able to protect them.

The *convenience*, indeed, of summary jurisdictions I am ready to admit; but it might be still more *convenient* to part with other constitutional rights, which are attended with troublesome duties; and we must always remember, what has often been said, that some inconvenience and trouble are the price, which free men must necessarily pay for their freedom. To conclude: though all, who hear me, have, I am persuaded, the same generous sentiments with myself on this point, yet I was desirous of impressing it forcibly on your minds; for, should our numerous fellow-subjects, who will, I trust, revisit their common country, carry back with them an indifference, contracted at this distance from it, to the principles of its publick law, some future age (perhaps an age not very distant) may have just occasion to exclaim: "It had been happy for us, if a *British* dominion " had never been established in *Asia*."

INSTITUTES
OF
HINDU LAW:
OR,
THE ORDINANCES OF MENU,
ACCORDING TO THE
GLOSS OF CULLÚCA.
COMPRISING THE
INDIAN SYSTEM OF DUTIES,
RELIGIOUS AND CIVIL.

VERBALLY TRANSLATED FROM THE ORIGINAL SANSKRIT.

WITH
A PREFACE,
BY SIR WILLIAM JONES.

INSTITUTES
OF
HINDU LAW

THE ORDINANCES OF MENU

OF THE
DUTY OF

INDIAN SYSTEM OF DUTY

BY SIR WILLIAM JONES

THE PREFACE.

IT is a maxim in the science of legislation and government, that *Laws are of no avail without manners*, or, to explain the sentence more fully, that the best intended legislative provisions would have no beneficial effect even at first, and none at all in a short course of time, unless they were congenial to the disposition and habits, to the religious prejudices, and approved immemorial usages, of the people, for whom they were enacted; especially if that people universally and sincerely believed, that all their ancient usages and established rules of conduct had the sanction of an actual revelation from heaven: the legislature of *Britain* having shown, in compliance with this maxim, an intention to leave the natives of these *Indian* provinces in possession of their own Laws, at least on the titles of *contracts* and *inheritances*, we may humbly presume, that all future provisions, for the administration of justice and government in *India*, will be conformable, as far as the natives are affected by them, to the manners and opinions of the natives themselves; an object, which cannot possibly be attained, until those manners and opinions can be fully and accurately known. These considerations, and a few others more immediately within my province, were my principal motives for wishing to know, and have induced me

at

at length to publish, that system of duties, religious and civil, and of law in all its branches, which the *Hindus* firmly believe to have been promulged in the beginning of time by MENU, son or grandson of BRAHMA', or, in plain language, the first of created beings, and not the oldest only, but the holiest, of legislators; a system so comprehensive and so minutely exact, that it may be considered as the *Institutes of Hindu Law*, preparatory to the copious *Digest*, which has lately been compiled by *Pandits* of eminent learning, and introductory perhaps to a *Code*, which may supply the many natural defects in the old jurisprudence of this country, and, without any deviation from its principles, accommodate it justly to the improvements of a commercial age.

We are lost in an inextricable labyrinth of imaginary astronomical cycles, *Yugas*, *Maháyugas*, *Calpas*, and *Menwantaras*, in attempting to calculate the time, when the first MENU, according to the *Bráhmens*, governed this world, and became the progenitor of mankind, who from him are called *Mánaváh*; nor can we, so clouded are the old history and chronology of *India* with fables and allegories, ascertain the precise age, when the work, now presented to the Publick, was actually composed; but we are in possession of some evidence, partly extrinsic and partly internal, that it is really one of the oldest compositions existing. From a text of PARA'SARA, discovered by Mr. DAVIS, it appears, that the vernal equinox had gone back from the *tenth* degree of *Bharanì* to the *first* of *Aswinì*, or *twenty-three degrees and twenty minutes*, between the days of that *Indian* philosopher, and the year of our Lord 499, when it coincided with the origin of the *Hindu* ecliptick; so that PARA'SARA probably flourished near the close of the *twelfth* century before CHRIST: now PARA'SARA was the grandson of another sage, named VA'SISHT'HA, who is often mentioned in the laws of MENU, and once as contemporary with the divine BHRIGU himself; but the character

character of BHRIGU, and the whole dramatical arrangement of the book before us, are clearly fictitious and ornamental, with a design, too common among ancient lawgivers, of stamping authority on the work by the introduction of supernatural personages, though VASISH-T'HA may have lived many generations before the actual writer of it; who names him, indeed, in one or two places as a philosopher in an earlier period. The style, however, and metre of this work (which there is not the smallest reason to think affectedly obsolete) are widely different from the language and metrical rules of CA'LIDA'S, who unquestionably wrote before the beginning of our era; and the dialect of MENU is even observed in many passages to resemble that of the *Véda*, particularly in a departure from the more modern grammatical forms; whence it must at first view seem very probable, that the laws, now brought to light, were considerably older than those of SOLON or even of LYCURGUS, although the promulgation of them, before they were reduced to writing, might have been coeval with the first monarchies established in *Egypt* or *Asia*: but, having had the singular good fortune to procure ancient copies of eleven *Upanishads* with a very perspicuous comment, I am enabled to fix with more exactness the probable age of the work before us, and even to limit its highest possible age, by a mode of reasoning, which may be thought new, but will be found, I persuade myself, satisfactory; if the Publick shall on this occasion give me credit for a few very curious facts, which, though capable of strict proof, can at present be only asserted. The *Sanscrit* of the three first *Védas* (I need not here speak of the fourth), that of the *Mánava Dherma Sástra*, and that of the *Puránas*, differ from each other in pretty exact proportion to the *Latin* of NUMA, from whose laws entire sentences are preserved, that of APPIUS, which we see in the fragments of the Twelve Tables, and that of CICERO, or of LUCRETIVS, where he has not affected an obsolete style: if the several changes, therefore, of *Sanscrit* and *Latin* took place, as we may fairly assume,

assume, in times very nearly proportional, the *Védas* must have been written about 300 years before these Institutes, and about 600 before the *Purānas* and *Itihāsas*, which, I am fully convinced, were not the productions of VYA'SA; so that, if the son of PARA'SARA committed the traditional *Védas* to writing in the *Sanscrit* of his father's time, the original of this book must have received its present form about 880 years before CHRIST's birth. If the texts, indeed, which VYA'SA collected, had been actually *written*, in a much older dialect, by the sages preceding him, we must inquire into the greatest possible age of the *Védas* themselves: now one of the longest and finest *Upanishads* in the second *Véda* contains three lists, in a regular series upwards, of at most *forty-two* pupils and preceptors, who successively received and transmitted (probably by oral tradition) the doctrines contained in that *Upanishad*; and, as the old *Indian* priests were students at *fifteen*, and instructors at *twenty-five*, we cannot allow more than *ten* years on an average for each interval between the respective traditions; whence, as there are *forty* such intervals, in two of the lists, between VYA'SA, who arranged the whole work, and AYA'SYA, who is extolled at the beginning of it, and just as many, in the third list, between the compiler and YA'JNYAWALCYA, who makes the principal figure in it, we find the highest age of the *Yajur Véda* to be 1580 years before the birth of our Saviour, (which would make it older than the five books of MOSES) and that of our *Indian* lawtract about 1280 years before the same epoch. The former date, however, seems the more probable of the two, because the *Hindu* sages are said to have delivered their knowledge orally, and the very word *Sruta*, which we often see used for the *Véda* itself, means *what was heard*; not to insist, that CULLU'CA expressly declares the sense of the *Véda* to be conveyed in the *language* of VYA'SA. Whether MENU, or MENUS in the nominative and MENO's in an oblique case, was the same personage with MINOS, let others determine; but he must indubitably have been far older than the work,

which

which contains his laws, and, though perhaps he was never in *Crete*, yet some of his institutions may well have been adopted in that island, whence LYCURGUS a century or two afterwards may have imported them to *Sparta*.

There is certainly a strong resemblance, though obscured and faded by time, between our MENU with his divine Bull, whom he names as DHERMA himself, or the genius of abstract justice, and the MNEUES of *Egypt* with his companion or symbol, *Apis*; and, though we should be constantly on our guard against the delusion of etymological conjecture, yet we cannot but admit that MINOS and MNEUES, or *Mneuis*, have only *Greek* terminations, but that the crude noun is composed of the same radical letters both in *Greek* and in *Sanscrit*. ‘ That APIS and ‘ MNEUIS, says the Analyst of ancient Mythology, were both representations of some personage, appears from the testimony of LYCON and his scholiast; and that personage was the same, who in ‘ *Crete* was styled MINOS, and who was also represented under the ‘ emblem of the *Minotaur*: DIODORUS, who confines him to *Egypt*, ‘ speaks of him by the title of the bull *Mneuis*, as the first lawgiver, ‘ and says, “ That he lived after the age of the gods and heroes, when “ a change was made in the manner of life among men; that he was “ a man of a most exalted soul, and a great promoter of civil society, “ which he benefited by his laws; that those laws were unwritten, and “ received by him from the chief *Egyptian* deity HERMES, who conferred them on the world as a gift of the highest importance.” He ‘ was the same, adds my learned friend, with MENES, whom the ‘ *Egyptians* represented as their first king and principal benefactor, who ‘ first sacrificed to the gods, and brought about a great change in diet.’ If MINOS, the son of JUPITER, whom the *Cretans*, from national vanity, might have made a native of their own island, was really the same person with MENU, the son of BRAHMA’, we have the good

fortune to restore, by means of *Indian* literature, the most celebrated system of heathen jurisprudence, and this work might have been entitled *The Laws of MINOS*; but the paradox is too singular to be confidently asserted, and the geographical part of the book, with most of the allusions to natural history, must indubitably have been written after the *Hindu* race had settled to the south of *Himálaya*. We cannot but remark that the word MENU has no relation whatever to the *Moon*; and that it was the *seventh*, not the *first*, of that name, whom the *Bráhmens* believe to have been preserved in an ark from the general deluge: him they call the *Child of the Sun*, to distinguish him from our legislator; but they assign to his brother YAMA the office (which the *Greeks* were pleased to confer on MINOS) of *Judge in the shades below*.

The name of MENU is clearly derived (like *menes*, *mens*, and *mind*) from the root *men* to *understand*; and it signifies, as all the *Pandits* agree, *intelligent*, particularly in the doctrines of the *Véda*, which the composer of our *Dherma Sástra* must have studied very diligently; since great numbers of its texts, changed only in a few syllables for the sake of the measure, are interspersed through the work and cited at length in the commentaries: the Publick may, therefore, assure themselves, that they now possess a considerable part of the *Hindu* scripture, without the dullness of its profane ritual or much of its mystical jargon. DA'RA SHUCU'H was persuaded, and not without sound reason, that the first MENU of the *Bráhmens* could be no other person than the progenitor of mankind, to whom *Jews*, *Christians*, and *Muselmáns* unite in giving the name of ADAM; but, whoever he might have been, he is highly honoured by name in the *Véda* itself, where it is declared, that 'whatever MENU pronounced, was a medicine for the soul;' and the sage VRIHASPETI, now supposed to preside over the planet *Jupiter*, says in his own law tract, that 'MENU held the first rank among legif-

lators,

‘ lators, because he had expressed in his code the whole sense of the
‘ *Véda*; that no code was approved, which contradicted MENU; that
‘ other *Sástras*, and treatises on grammar or logick, retained splen-
‘ dour so long only, as MENU, who taught the way to just wealth, to
‘ virtue, and to final happiness, was not seen in competition with them:’
VYA’SÁ too, the son of PARA’SARA before mentioned, has decided,
that ‘ the *Véda* with its *Angas*, or the six compositions deduced from
‘ it, the revealed system of medicine, the *Puránas*, or sacred histories,
‘ and the code of MENU, were four works of supreme authority,
‘ which ought never to be shaken by arguments merely human.’

It is the general opinion of *Pandits*, that BRAHMA’ taught his laws
to MENU in a *hundred thousand verses*, which MENU explained to the
primitive world in the very words of the book now translated, where
he names himself, after the manner of ancient sages, in the third
person; but, in a short preface to the lawtract of NA’RED, it is
asserted, that ‘ MENU, having written the laws of BRAHMA’ in a
‘ hundred thousand *ślokas* or couplets, arranged under *twenty-four* heads
‘ in a *thousand* chapters, delivered the work to NA’RED, the sage
‘ among gods, who abridged it, for the use of mankind, in *twelve*
‘ *thousand* verses, and gave them to a son of BHRĪGU, named SUMATI,
‘ who, for greater ease to the human race, reduced them to *four*
‘ *thousand*; that mortals read only the second abridgement by SUMATI,
‘ while the gods of the lower heaven, and the band of celestial
‘ musicians, are engaged in studying the primary code, beginning with
‘ the fifth verse, a little varied, of the work now extant on earth; but
‘ that nothing remains of NA’RED’s abridgement, except an elegant
‘ epitome of the *ninth* original title *on the administration of justice*.’
Now, since these institutes consist only of *two thousand six hundred*
and *eighty-five* verses, they cannot be the whole work ascribed to

SUMATI,

SUMATI, which is probably distinguished by the name of the *Vriddha*, or ancient, *Mánava*, and cannot be found entire; though several passages from it, which have been preserved by tradition, are occasionally cited in the new digest.

A number of glosses or comments on MĒNU were composed by the *Munis*, or old philosophers, whose treatises, together with that before us, constitute the *Dhermasāstra*, in a collective sense, or *Body of Law*; among the more modern commentaries, that called *Médbátit'hi*, that by GO'VINDARÁJA, and that by DHARANÍ-DHERA, were once in the greatest repute; but the first was reckoned prolix and unequal; the second, concise but obscure; and the third, often erroneous. At length appeared CULLUCA BHATTA; who, after a painful course of study, and the collation of numerous manuscripts, produced a work, of which it may, perhaps, be said very truly, that it is the shortest, yet the most luminous, the least ostentatious, yet the most learned, the deepest yet the most agreeable, commentary ever composed on any author ancient or modern, *European* or *Asiatick*. The *Pandits* care so little for genuine chronology, that none of them can tell me the age of CULLUCA, whom they always name with applause; but he informs us himself, that he was a *Bráhmen* of the *Váréndra* tribe, whose family had been long settled in *Gaur* or *Bengal*, but that he had chosen his residence among the learned on the banks of the holy river at *Cáfi*. His text and interpretation I have almost implicitly followed, though I had myself collated many copies of MĒNU, and among them a manuscript of a very ancient date: his gloss is here printed in *Italicks*; and any reader, who may choose to pass it over as if unprinted, will have in *Roman* letters an exact version of the original, and may form some idea of its character and structure, as well as of the *Sanscrit* idiom, which must necessarily be preserved in a verbal translation; and a translation,

translation, not scrupulously verbal, would have been highly improper in a work on so delicate and momentous a subject as private and criminal jurisprudence.

Should a series of *Bráhmens* omit, for three generations, the reading of MENU, their sacerdotal class, as all the *Pandits* assure me, would in strictness be forfeited; but they must explain it only to their pupils of the three highest classes; and the *Bráhmen*, who read it with me, requested most earnestly, that his name might be concealed; nor would he have read it for any consideration on a forbidden day of the moon, or without the ceremonies prescribed in the second and fourth chapters for a lecture on the *Véda*: so great, indeed, is the idea of sanctity annexed to this book, that, when the chief native magistrate at *Banares* endeavoured, at my request, to procure a *Persian* translation of it, before I had a hope of being at any time able to understand the original, the *Pandits* of his court unanimously and positively refused to assist in the work; nor should I have procured it at all, if a wealthy *Hindu* at *Gayà* had not caused the version to be made by some of his dependants, at the desire of my friend Mr. LAW. The *Persian* translation of MENU, like all others from the *Sanscrit* into that language, is a rude intermixture of the text, loosely rendered, with some old or new comment, and often with the crude notions of the translator; and, though it expresses the general sense of the original, yet it swarms with errors, imputable partly to haste, and partly to ignorance: thus where MENU says, *that emissaries are the eyes of a prince*, the *Persian* phrase makes him ascribe *four eyes* to the person of a king; for the word *chár*, which means *an emissary* in *Sanscrit*, signifies *four* in the popular dialect.

The work, now presented to the *European* world, contains abundance of curious matter extremely interesting both to speculative lawyers
and

and antiquaries, with many beauties, which need not be pointed out, and with many blemishes, which cannot be justified or palliated. It is a system of despotism and priestcraft, both indeed limited by law, but artfully conspiring to give mutual support, though with mutual checks; it is filled with strange conceits in metaphysics and natural philosophy, with idle superstitions, and with a scheme of theology most obscurely figurative, and consequently liable to dangerous misconception; it abounds with minute and childish formalities, with ceremonies generally absurd and often ridiculous; the punishments are partial and fanciful, for some crimes dreadfully cruel, for others reprehensibly slight; and the very morals, though rigid enough on the whole, are in one or two instances (as in the case of light oaths and of pious perjury) unaccountably relaxed: nevertheless, a spirit of sublime devotion, of benevolence to mankind, and of amiable tenderness to all sentient creatures, pervades the whole work; the style of it has a certain austere majesty, that sounds like the language of legislation and extorts a respectful awe; the sentiments of independence on all beings but God, and the harsh admonitions even to kings are truly noble; and the many panegyrics on the *Gâyatrî*, the *Mother*, as it is called, of the *Vêda*, prove the author to have *adored* (not the visible material *sun*, but) *that divine and incomparably greater light*, to use the words of the most venerable text in the *Indian* scripture, *which illumines all, delights all, from which all proceed, to which all must return, and which alone can irradiate* (not our visual organs merely, but our souls and) *our intellects*. Whatever opinion in short may be formed of MENU and his laws, in a country happily enlightened by sound philosophy and the only true revelation, it must be remembered, that those laws are actually revered, as the word of the Most High, by nations of great importance to the political and commercial interests of *Europe*, and particularly by many millions of *Hindu* subjects, whose well directed industry would add largely to the wealth of *Britain*, and
who

who ask no more in return than protection for their persons and places of abode, justice in their temporal concerns, indulgence to the prejudices of their own religion, and the benefit of those laws, which they have been taught to believe sacred, and which alone they can possibly comprehend.

W. JONES.

CORRESPONDENCE

WITH THE

GOVERNMENT OF FORT WILLIAM.

To Earl CORNWALLIS, Governor General, &c.

MY LORD,

IT has long been my wish to address the government of the British dominions in India, on the administration of justice among the natives of Bengal and Bahar; a subject of equal importance to the appellate jurisdiction from the provincial Courts and to the judicature of the Supreme Court at Calcutta; where the judges are required by the Legislature to decide controversies between Hindu and Mohammedan parties, according to their respective laws of contracts and of succession to property: they had, I believe, so decided them in most cases, before the statute, to which I allude, had passed; and the Parliament only confirmed that mode of decision, which the obvious principles of justice had led them before to adopt. Nothing indeed could be more obviously just, than to determine private contests according to those laws, which the parties themselves had ever considered as the rules of their conduct and engagements in civil life; nor could any thing be wiser than, by a legislative act, to assure the Hindu and Muselman subjects of Great Britain, that the private laws, which they severally hold sacred, and a violation of which they would have thought the most

grievous oppression, should not be superseded by a new system, of which they could have no knowledge, and which they must have considered as imposed on them by a spirit of rigour and intolerance. So far the principle of decision between the native parties in a cause appears perfectly clear; but the difficulty lies (as in most other cases) in the application of the principle to practice; for the Hindu and Muselman laws are locked up for the most part in two very difficult languages, Sanscrit and Arabick, which few Europeans will ever learn, because neither of them leads to any advantage in worldly pursuits; and, if we give judgement only from the opinions of the native lawyers and scholars, we can never be sure that we have not been deceived by them.

It would be absurd and unjust to pass an indiscriminate censure on a considerable body of men; but my experience justifies me in declaring, that I could not with an easy conscience concur in a decision, merely on the written opinion of native lawyers, in any cause in which they could have the remotest interest in misleading the Court: nor, how vigilant soever we might be, would it be very difficult for them to mislead us; for a single obscure text, explained by themselves, might be quoted as express authority, though perhaps in the very book, from which it was selected, it might be differently explained, or introduced only for the purpose of being exploded.

The obvious remedy for this evil had occurred to me before I left England, where I had communicated my sentiments to some friends in Parliament and on the Bench in Westminster Hall, of whose discernment I had the highest opinion; and those sentiments I propose to unfold in this letter, with as much brevity as the magnitude of the subject will admit. If we had a complete Digest of Hindu and Mohammedan laws, after the model of Justinian's inestimable Pandects,
compiled

compiled by the most learned of the native lawyers, with an accurate verbal translation of it into English; and if copies of the work were repositied in the proper offices of the Sedr Divání Adálat, and of the Supreme Court, that they might occasionally be consulted as a standard of justice, we should rarely be at a loss for principles, at least, and rules of law applicable to the cases before us, and should never perhaps be led astray by the Pandits or Maulavi's, who would hardly venture to impose on us, when their imposition might so easily be detected. The great work, of which Justinian has the credit, consists of texts collected from law books of approved authority which in his time were extant at Rome; and those texts are digested according to a scientific analysis; the names of the original authors, and the titles of their several books, being constantly cited with references even to the parts of their works, from which the different passages were selected; but, although it comprehends the whole system of jurisprudence, public, private, and criminal, yet that vast compilation was finished, we are told, in three years: it bears marks unquestionably of great precipitation, and of a desire to gratify the Emperor by quickness of dispatch; but, with all its imperfections, it is a most valuable mine of juridical knowledge. It gives law at this hour to the greatest part of Europe; and, though few English lawyers dare make such an acknowledgement, it is the true source of nearly all our English laws, that are not of a feudal origin. It would not be unworthy of a British Government, to give the natives of these Indian provinces a permanent security for the due administration of justice among them, similar to that which Justinian gave to his Greek and Roman subjects; but our compilation would require far less labour, and might be completed with far greater exactness in as short a time; since it would be confined to the laws of contracts and inheritances, which are of the most extensive use in private life, and to which the Legislature has limited the decisions of the Supreme Court in causes between native parties: the labour

labour of the work would also be greatly diminished by two compilations already made in Sanscrit and Arabick, which approach nearly in merit and in method, to the Digest of Justinian. The first was composed a few centuries ago, by a Brahmen of this province, named *Raghunanden*, and is comprised in twenty-seven books at least, on every branch of Hindu law: the second, which the Arabs call the Indian Decisions, is known here by the title of *Fetâwî Adlemgîri*, and was compiled by the order of *Aurangzib*, in five large volumes, of which I possess a perfect and well-collated copy. To translate these immense works would be superfluous labour; but they will greatly facilitate the compilation of a Digest on the laws of inheritance and contracts; and the Code, as it is called, of Hindu law, which was compiled at the request of Mr. Hastings, will be useful for the same purpose, though it by no means obviates the difficulties before stated, nor supercedes the necessity, or the expedience at least, of a more ample repertory of Hindu laws, especially on the twelve different contracts, to which *Ulpian* has given specifick names; and on all the others, which, though not specifically named, are reducible to four general heads. The last mentioned work is entitled *Vivâdârnava Sétî*, and consists, like the Roman Digest, of authentick texts, with the names of their several authors regularly prefixed to them, and explained where an explanation is requisite, in short notes taken from commentaries of high authority: it is, as far as it goes, a very excellent work; but, though it appear extremely diffuse on subjects rather curious than useful, and though the chapter on inheritances be copious and exact, yet the other important branch of jurisprudence, the law of contracts, is very succinctly and superficially discussed, and bears an inconsiderable proportion to the rest of the work. But, whatever be the merit of the original, the translation of it has no authority, and is of no other use than to suggest enquiries on the many dark passages, which we find in it: properly speaking, indeed, we cannot call it a translation; for, though

though Mr. Halhed performed his part with fidelity, yet the Persian interpreter had supplied him only with a loose injudicious epitome of the original *Sanscrit*, in which abstract many essential passages are omitted, though several notes of little consequence are interpolated, from a vain idea of elucidating or improving the text. All this I say with confidence, having already perused no small part of the original with a learned Pandit, comparing it, as I proceeded, with the English version.

Having shewn, therefore, the expedience of a new compilation for each system of Indian law, I beg leave to state the difficulties which must attend the work, and to suggest the means of removing them. The difficulty which first presents itself, is the expence of paying the Pandits and Maulavi's, who must compile the Digest, and the native writers who must be employed to transcribe it. Since two provinces are immediately under this Government, in each of which there are many *customary* laws, it would be proper to employ one Pandit of Bengal and another from Bahar; and, since there are two Mohammedan sects, who differ in regard to many traditions from their Prophet, and to some decisions of their respective doctors, it might be thought equally proper to engage one Maulavi of each sect; and this mode would have another advantage, since two lawyers conferring freely together, on fundamental principles common to both, would assist, direct, and check each other: but, as the most learned among them ought by all means to be selected, and, as the work would occupy all their time, a monthly salary of two hundred Sicca rupees for each, would be no more than reasonable; and one hundred Sicca rupees a month, for each of the writers in Nágari and Arabick, would not be more than sufficient wages, since they ought to be competently skilled in the two several languages, that they might avoid gross errors in transcribing what the lawyers had written. The whole expence, therefore,

therefore, would be a thousand Sicca rupees a month ; since the charges of the best English paper would not be worth considering : but, lest the persons employed should protract their work in hopes of continued salaries for a long period, they should be apprized, that the whole compilation must be finished and copied in three years, at the expiration of which their salaries would be stopped.

Although I can have no personal interest, immediate or consequential, in the work proposed, yet I would cheerfully have borne the whole expence of it, if common prudence had not restrained me, and if my private establishment of native readers and writers, which I cannot with convenience discontinue at present, did not require more than half of the monthly expence, which the completion of a Digest would, in my opinion, demand. I am under a necessity, therefore, of intimating that, if the work be thought expedient, the charges of it should be defrayed by the Government, and the salaries paid by their officers. The second difficulty is, to find a director of the work and a translator of it, who with a competent knowledge of Sanscrit and Arabick, has a general acquaintance with the principles of jurisprudence, and a sufficient share even of a legislative spirit, to arrange the plan of a Digest, superintend the compilation of it, and render the whole, as it proceeds, into perspicuous English, so that even the translation may acquire a degree of authority proportioned to the publick opinion of his accuracy. Now though I am truly conscious of possessing a very moderate portion of those talents, which I should require in the superintendent of such a work, yet I may without vanity profess myself equal to the labour of it. And though I would much rather see the work well-conducted by any man than by myself, yet I would rather give myself the trouble of it than not live to see it conducted at all ; and, I cannot but know, that the qualifications required even in the low degree in which I possess them are not often found united in the same person for a reason before suggested. If your
Lordship,

Lordship, therefore, after full consideration of the subject, shall be of opinion, that a Digest of Hindu and Mohammedan laws would be a work of national honour, and utility, I so cherish both, that I offer the nation my humble labour, as far as I can dispose of my time consistently with the faithful discharge of my duty as a magistrate. Should this offer be accepted, I should then request your Lordship to nominate the Pandits and Maulavi's to whom I would severally give a plan conformable to the best analysis that I could make; and I should be able, IF MY HEALTH CONTINUED FIRM, to translate every morning, before any other business is begun, as much as they could compile, and the writers copy, in the preceding day. The *Dherma Sástra* or Sacred Code of the Hindus consists of *eighteen* books, the first of which would in any age or nation be thought a wonderful performance; both the first and second have excellent commentaries of great authority, but the other sixteen are too easy to need elucidation: the works of *Menu*, of *Yágya-waleya*, and most of the others, are in blank verse, but that of *Gautam* is in modulated prose. Besides these the Hindus have many standard law-tracts with their several commentaries, and, among them, a fine treatise on Inheritances, by *Ímútaváhan*, to which our Pandits often refer; though, on that subject, the work of *Raghunandan* seems to be more generally approved in this province.

The Muselmans, besides a few general rules in the *Koran*, and a number of traditional *maxims* delivered from their prophet, and his companions, through the sages of their law, together with the opinions of their celebrated lawyers preserved by their disciples, have two incomparable little tracts, one by *Sirájú-ddín*, and the other by *Alkudúri*; the former on Successions only, and the other on Contracts also, with comments on each, and further comments on them; not to mention some other tracts of acknowledged authority, and large collections of *decisions* in particular cases. All these books may, I suppose, be procured with ease; and some
of

of the most rare among them are in my possession: mine I would lend with pleasure to the Pandits and Maulavi's, if they happened to be unprovided with good copies of them; and my example would, I persuade myself, be followed on such an occasion by other collectors of eastern manuscripts, both natives and Europeans. This is all, that appears necessary to be written on the subject, with which I began this address to your Lordship; I could not have expressed myself more concisely without some obscurity; and to have enlarged on the technical plan of the work which I have proposed, would have been superfluous.

I have the honour to be,

My Lord,

Your Lordship's faithful and obedient Servant,

(Signed) WILLIAM JONES.

Calcutta, 19th March, 1788.

To Sir WILLIAM JONES, &c. &c. &c.

SIR,

THE Governor General has laid before us your letter addressed to him in Council of this date.

The object of your proposition being to promote a due administration of justice, it becomes interesting to humanity; and it is deserving of our peculiar attention, as being intended to increase and secure the happiness of the numerous inhabitants of the Company's provinces.

In addition to all other considerations, we are highly sensible that the accomplishment of the Digest that you propose of the Hindu and Mahomedan

medan laws, would reflect the greatest honour upon our administration, and we think it singularly fortunate that a person so eminently qualified as you are, should, from principles of general benevolence and public spirit, be induced to engage in so arduous an undertaking.

We therefore, with the highest pleasure, accept of your offer to direct and translate this work, and we shall entirely rely upon your knowledge and judgement to select and appoint as many of the most respectable Moulavies and Pandits of this country as you may think necessary to give you effectual assistance.

We have no hesitation in giving our immediate assent to incur the expence that you propose for carrying on a work of so much value to the publick, and we have accordingly given orders to the Civil Paymaster to receive your directions for making the monthly disbursements in the manner that you have stated to be necessary.

We are, &c.

(Signed) GOVERNOR GENERAL
AND COUNCIL.

Fort-William, 19th March, 1788.

9th June, 1793.

SIR,

I HAVE the pleasure of sending to the Governor General in Council, a system of Hindu laws, believed to be of divine authority, and, in my opinion, of the greatest importance. Having observed, that every page of the new compilation, by the Pandits employed by Government, was filled with texts of Menu, I thought it best to translate the whole

code of that ancient legislator ; because I knew, that many of his laws, which appeared obscure when detached, would be perfectly clear when connected.

Should the Government be pleased to give orders for printing the book in Calcutta, I will correct the press with the most vigilant attention ; and I much doubt whether it can be corrected in England. Two more vacations will, I trust, enable me to complete the Digest, with an Introductory Discourse.

I am, &c.

(Signed) WILLIAM JONES.

EDWARD HAY, Esq.

Secretary, &c. &c.

The Honourable Sir WILLIAM JONES, &c. &c. &c.

SIR,

I HAVE been honoured with your letter of the 9th instant, and have laid it before the Governor General in Council, with the two volumes you have been so good as to present to the Board, containing your translation, in manuscript, of the Manava Derma Sastra. His Lordship in Council has instructed me to assure you, that he is highly sensible how much the public and the country at large are indebted to you, for the great trouble you have taken in preparing this great and most useful work ; and to acquaint you, that as there is a certainty, under the offer which you have kindly made, of correcting the press should the work be printed in this country, of its being published with a particular

THE GOVERNMENT OF FORT WILLIAM.

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particular degree of accuracy, that could not be expected if the work were printed in England, he has determined that the book should be printed here.

I have received directions to have an exact copy in manuscript made, and as parts of it are finished, I shall, with your permission, do myself the honour of sending them to you, that you may be so obliging as to give such orders to the superintendents of the Company's press for printing the work, as you may wish to be attended to.

I am, with great respect, &c.

(Signed) EDWARD HAY,

Secretary to the Government.

Council Chamber, 11th June, 1793.

THE
LAWS OF MENU,

SON OF BRAHMA.

CHAPTER THE FIRST.

On the Creation; with a Summary of the Contents.

1. **M**ENU *sat* reclined, with his attention fixed on one object, *the Supreme God*; *when* the divine Sages approached *him*, *and*, after mutual salutations in due form, delivered the following address:

2. ‘ Deign, sovereign ruler, to apprise us of the sacred laws in their
‘ order, as they must be followed by all the *four* classes, and by each
‘ of them, in their several degrees, together with the duties of every
‘ mixed class;

3. ‘ For thou, Lord, *and thou only among mortals*, knowest the true
‘ sense, the first principle, *and* the prescribed ceremonies, of this uni-
‘ versal, supernatural *Véda*, unlimited in extent and unequalled in
‘ authority.’

4. HE, whose powers were measureless, being thus requested by the great Sages, whose thoughts were profound, saluted them all with reverence, and gave them a comprehensive answer, *saying*: ‘ Be it heard !

5. ‘ This *universe* existed only in the first divine idea yet unexpanded, as if involved in darkness, imperceptible, undefinable, undiscoverable by reason, and undiscovered by revelation, as if it were wholly immersed in sleep :

6. ‘ Then the sole self-existing power, himself undiscerned, but making this world discernible, with five elements and other principles of nature, appeared with undiminished glory, expanding his idea, or dispelling the gloom.

7. ‘ HE, whom the mind alone can perceive, whose essence eludes the external organs, who has no visible parts, who exists from eternity, even HE, the soul of all beings, whom no being can comprehend, shone forth in person.

8. ‘ HE, having willed to produce various beings from his own divine substance, first with a thought created the waters, and placed in them a productive seed :

9. ‘ That seed became an egg bright as gold, blazing like the luminary with a thousand beams ; and in that egg he was born himself, in the form of BRAHMA, the great forefather of all spirits.

10. ‘ The waters are called *nára*, because they were the production of NARA, or the spirit of God ; and, since they were his first *ayana*,
‘ or

‘ or *place of motion*, he thence is named NA’RA’YANA, or *moving on the waters*.

11. ‘ From THAT WHICH IS, the first cause, not the object of sense, existing *every where in substance*, not existing *to our perception*, without beginning or end, was produced the divine male, famed in all worlds under the appellation of BRAHMA’.

12. ‘ In that egg the great power sat inactive a whole year *of the Creator*, at the close of which by his thought alone he caused the egg to divide itself;

13. ‘ And from its two divisions he framed the heaven *above* and the earth *beneath*: in the midst he placed the subtil ether, the eight regions, and the permanent receptacle of waters.

14. ‘ From the supreme soul he drew forth Mind, existing substantially though unperceived by sense, immaterial; and, *before mind, or the reasoning power*, he produced consciousness, the internal monitor, the ruler;

15. ‘ And, *before them both*, he produced the great *principle of the soul, or first expansion of the divine idea*; and all vital forms endued with the three qualities of *goodness, passion, and darkness*; and the *five* perceptions of sense, and the five organs of sensation.

16. ‘ Thus, having at once pervaded, with emanations from the Supreme Spirit, the minutest portions of six principles immensely operative, *consciousness and the five perceptions*, He framed all creatures;

17. ‘ And

17. ‘ And since the minuteſt particles of viſible nature have a depend-
 ‘ ence on thoſe *ſix* emanations from GOD, the wiſe have accordingly
 ‘ given the name of *s’arira*, or *depending on ſix, that is, the ten organs*
 ‘ *on conſciouſneſs, and the five elements on as many perceptions*, to His
 ‘ *image or appearance* in viſible nature :

18. ‘ Thence proceed the great elements, endued with peculiar
 ‘ powers, and Mind with operations infinitely ſubtil, the unperishable
 ‘ cauſe of all apparent forms.

19. ‘ This *univerſe*, therefore, is compacted from the minute por-
 ‘ tions of thoſe ſeven divine and active principles, *the great Soul, or*
 ‘ *fiſt emanation, conſciouſneſs, and five perceptions ; a mutable univerſe*
 ‘ from immutable *ideas*.

20. ‘ Among them each ſucceeding element acquires the quality of
 ‘ the preceding ; and, in as many degrees as each of them is advanced,
 ‘ with ſo many properties is it ſaid to be endued.

21. ‘ HE too fiſt aſſigned to all creatures diſtinct names, diſtinct
 ‘ acts, and diſtinct occupations ; as they had been revealed in the pre-
 ‘ exiſting *Véda*:

22. ‘ HE, the ſupreme Ruler, created an aſſemblage of inferior Dei-
 ‘ ties, with divine attributes and pure ſouls ; and a number of Genii
 ‘ exquisitely delicate ; and he *preſcribed* the ſacrifice ordained from the
 ‘ beginning.

23. ‘ From fire, from air, and from the ſun he milked out, *as it*
 ‘ *were*, the three primordial *Védas*, named *Rich, Yajuſh, and Sáman*,
 ‘ for the due performance of the ſacrifice.

24. ‘ HE

24. ' HE gave being to time and the divisions of time, to the stars
' also, and to the planets, to rivers, oceans, and mountains, to level
' plains, and uneven valleys,

25. ' To devotion, speech, complacency, desire, and wrath, and to
' the creation, which shall presently be mentioned ; for He willed the
' existence of all those created things.

26. ' For the sake of distinguishing actions, He made a total differ-
' ence between right and wrong, and ensured these sentient creatures
' to pleasure and pain, *cold and heat*, and other opposite pairs.

27. ' With very minute transformable portions, called *mátrás*, of the
' five elements, all this perceptible world was composed in fit order ;

28. ' And in whatever occupation the supreme Lord first employed
' any vital soul, to that occupation the same soul attaches itself spon-
' taneously, when it receives a new body again and again :

29. ' Whatever quality, noxious or innocent, harsh or mild, unjust
' or just, false or true, He conferred on any being at its creation, the
' same quality enters it of course *on its future births* ;

30. ' As the *six* seasons of the year attain respectively their peculiar
' marks in due time and of their own accord, even so the several acts
' of each embodied spirit *attend it naturally*.

31. ' That the human race might be multiplied, He caused the
' *Bráhmen*, the *Cshatriya*, the *Vaisya*, and the *Súdra* (so named from
' the *scripture*, *protection*, *wealth*, and *labour*) to proceed from his
' mouth, his arm, his thigh, and his foot.

32. ' Having

32. ' Having divided his own substance, the mighty power became
 ' half male, half female, *or nature active and passive*; and from that
 ' female he produced VIRAJ :

33. ' Know Me, O most excellent of *Bráhmens*, to be that person,
 ' whom the male *power* VIRAJ, having performed austere devotion,
 ' produced by himself; Me, the *secondary* framer of all this *visible world*.

34. ' It was I, who, desirous of giving birth to a race of men, per-
 ' formed very difficult religious duties, and first produced ten Lords of
 ' created beings, eminent in holiness,

35. ' MARÍCHI, ATRI, ANGIRAS, PULASTYA, PULAHA, CRATU,
 ' PRACHE'TAS, or DACSHA, VASISHT'HA, BHRÍGU, and NA'RADA :

36. ' They, abundant in glory, produced seven other *Menus*, toge-
 ' ther with deities, and the mansions of deities, and *Maharshis*, or great
 ' Sages, unlimited in power ;

37. ' Benevolent genii, and fierce giants, blood-thirsty savages, hea-
 ' venly quiriters, nymphs and demons, huge serpents and snakes of
 ' smaller size, birds of mighty wing, and separate companies of *Pitirs*,
 ' or progenitors of mankind ;

38. ' Lightnings and thunder-bolts, clouds and coloured bows of
 ' INDRA, falling meteors, earth-rending vapours, comets, and lumina-
 ' ries of various degrees ;

39. ' Horse-faced sylvans, apes, fish, and a variety of birds, tame
 ' cattle, deer, men, and ravenous beasts with two rows of teeth ;

40. ' Small

40. ' Small and large reptiles, moths, lice, fleas, and common flies,
' with every biting gnat, and immoveable substances of distinct sorts.

41. ' Thus was this whole assemblage of stationary and moveable
' bodies framed by those high-minded beings, through the force of
' their own devotion, and at my command, with separate actions
' allotted to each.

42. ' Whatever act is ordained for each of those creatures here
' below, *that* I will now declare to you, together with their order
' in respect to birth.

43. ' Cattle and deer, and wild beasts with two rows of teeth,
' giants, and blood-thirsty savages, and the race of men, are born
' from a fecundine :

44. ' Birds are hatched from eggs; *so are* snakes, crocodiles, fish
' *without shells*, and tortoises, with other animal kinds, terrestrial,
' *as chameleons*, and aquatick, *as shell-fish* :

45. ' From hot moisture are born biting gnats, lice, fleas, and
' common flies; these, and whatever is of the same class, are pro-
' duced by heat.

46. ' All vegetables, propagated by seed or by slips, grow from
' shoots: some herbs, abounding in flowers and fruits, perish when
' the fruit is mature ;

47. ' Other plants, called lords of the forest, have no flowers, but
' produce fruit; and, whether they have flowers also, or fruit only,
' *large woody plants* of both sorts are named trees.

48. ' There

48. ' There are shrubs with many stalks from the root upwards,
' and reeds with single roots but united stems, all of different kinds,
' and grasses, and *vines or* climbers, and creepers, which spring from a
' seed or from a slip.

49. ' These *animals and vegetables*, encircled with multiform dark-
' nefs, by reason of past actions, have internal conscience, and are
' sensible of pleasure and pain.

50. ' All transmigrations, recorded in *sacred books*, from the state
' of BRAHMA', to that of plants, happen continually in this tre-
' mendous world of beings; a world *always* tending to decay.

51. ' HE, whose powers are incomprehensible, having thus created
' both me and this universe, was again absorbed in the supreme
' Spirit, changing *the time of energy* for *the time of repose*.

52. ' When that power awakes, (*for, though slumber be not predicable*
' *of the sole eternal Mind, infinitely wise and infinitely benevolent, yet*
' *it is predicated of BRAHMA', figuratively, as a general property of life*)
' then has this world its full expansion; but, when he slumbers with
' a tranquil spirit, then the whole system fades away;

53. ' For, while he reposes, *as it were*, in calm sleep, embodied
' spirits, endued with principles of action, depart from their several
' acts, and the mind itself becomes inert;

54. ' And, when they once are absorbed in that supreme essence,
' then the divine soul of all beings withdraws his energy, and
' placidly slumbers;

55. ' Then

55. ' Then too this vital soul *of created bodies*, with all the organs
' of sense and of action, remains long immersed *in the first idea or in*
' darkness, and performs not its natural functions, but migrates from
' its corporeal frame :

56. ' When, being *again* composed of minute elementary prin-
' ciples, it enters at once into vegetable or animal feed, it then assumes
' a *new* form.

57. ' Thus that immutable Power, by waking and reposing alter-
' nately, revivifies and destroys in eternal succession this whole assem-
' blage of locomotive and immoveable creatures.

58. ' HE, having enacted this code of laws, himself taught it fully
' to me in the beginning : afterwards I taught it MARICHI and the
' *nine* other holy sages.

59. ' This *my son* BHRIGU will repeat the divine code to you
' without omission ; for that sage learned from me to recite the
' whole of it.'

60. BHRIGU, great and wise, having thus been appointed by MENU
to promulge his laws, addressed all the *Rishis* with an affectionate
mind, saying : ' Hear !

61. ' FROM this MENU, named SWAYAMBHUYA, or *Sprung from the*
' *self-existing*, came six descendants, other MENUS, or *perfectly under-*
' *standing the scripture*, each giving birth to a race of his own, all
' exalted in dignity, eminent in power ;

62. ' SWA'RO'CHISHA, AUTTAMI, TA'MASA, RAIVATA likewise
' and CHA'CSHUSHA, beaming with glory, and VAIVASWATA, child of
' the sun.

63. ' The seven MENUS, (or *those first created, who are to be followed*
' *by seven more*) of whom SWA'YAMBHUYA is the chief, have pro-
' duced and supported this world of moving and stationary beings,
' each in his own *Antara*, or *the period of his reign*.

64. ' Eighteen *niméshas*, or *twinklings of an eye*, are one *cásh't'há*; thirty
' *cásh't'hás*, one *calá*; thirty *calás*, one *muhúrta*: and just so many
' *muhúrtas* let mankind consider as the duration of their day and night.

65. ' The sun causes the distribution of day and night both divine
' and human; night being *intended* for the repose of *various* beings,
' and day for their exertion.

66. ' A month *of mortals* is a day and a night of the *Pitris* or *pa-*
' *triarchs inhabiting the moon*; and the division *of a month* being into equal
' halves, the half beginning from the full moon is their day for actions;
' and that beginning from the new moon is their night for slumber:

67. ' A year *of mortals* is a day and a night of the Gods, or *regents*
' *of the universe seated round the north pole*; and again their division
' is this: their day is the northern, and their night the southern,
' course of the sun.

68. ' Learn now the duration of a day and a night of BRAHMA',
' and of the several ages, which shall be mentioned in order succinctly.

69. ' Sages

69. ' Sages have given the name of *Crīta* to an age containing four
' thousand years of the Gods ; the twilight preceding it consists of as
' many hundreds, and the twilight following it, of the same number :

70. ' In the other three *ages*, with their twilights preceding and
' following, are thousands and hundreds diminished by one.

71. ' The divine years, in the four *human* ages just enumerated,
' being added together, their sum, *or* twelve thousand, is called
' the age of the Gods ;

72. ' And, by reckoning a thousand such divine ages, a day of
' BRAHMA' may be known : his night also has an equal duration :

73. ' Those persons best know the divisions of days and nights,
' who understand, that the day of BRAHMA', which endures to the end
' of a thousand such ages, gives rise to virtuous exertions ; and
' that his night endures as long as his day.

74. ' At the close of his night, having long reposed, he awakes,
' and, awaking, exerts intellect, *or reproduces the great principle of*
' *animation*, whose property it is to exist unperceived by sense :

75. ' Intellect, called into action by his will to create worlds, per-
' forms *again* the work of creation ; and thence *first* emerges the subtil
' ether, to which philosophers ascribe the quality of *conveying* sound ;

76. ' From ether, effecting a transmutation in form, springs the
' pure and potent air, a vehicle of all scents ; and air is held endued
' with the quality of touch :

77. ' Then

77. ' Then from air, operating a change, rises light *or fire*, making
' objects visible, dispelling gloom, spreading bright rays; *and* it is
' declared to have the quality of figure;

78. ' But from light, a change being effected, comes water with
' the quality of taste; and from water is *deposited* earth with the
' quality of smell: such were they created in the beginning.

79. ' The beforementioned age of the Gods, or twelve thousand
' *of their* years, being multiplied by seventy-one, *constitutes what* is
' here named a *Menwantara*, *or the reign of a MENU*.

80. ' There are numberless *Menwantaras*; creations also and de-
' structions of worlds, *innumerable*: the Being supremely exalted
' performs all this, *with as much ease* as if in sport, again and again
' *for the sake of conferring happiness*.

81. ' In the *Crīta* age *the Genius of* truth and right, *in the*
' *form of a Bull*, stands firm on his four feet; nor does any advantage
' accrue to men from iniquity;

82. ' But in the following ages, by reason of unjust gains, he
' is deprived successively of one foot; and even just emoluments,
' through the prevalence of theft, falsehood, and fraud, are *gradually*
' diminished by a fourth part.

83. ' Men, free from disease, attain all sorts of prosperity and live
' four hundred years, in the *Crīta* age; but, in the *Trētā* and the suc-
' ceeding ages, their life is lessened gradually by one quarter.

84. ' The

84. ' The life of mortals, which is mentioned in the *Véda*, the
' rewards of good works, and the powers of embodied spirits, are
' fruits proportioned among men to the order of the *four* ages.

85. ' Some duties are performed by *good* men in the *Crīta* age;
' others, in the *Trétà*; some, in the *Dwápara*; others in the *Calī*;
' in proportion as those ages decrease in length.

86. ' In the *Crīta* the prevailing virtue is declared to be devotion;
' in the *Trétà*, divine knowledge; in the *Dwápara*, holy sages call
' sacrifice the duty chiefly performed; in the *Calī*, liberality alone.

87. ' For the sake of preserving this universe, the Being supremely
' glorious allotted separate duties to those, who sprang respectively
' from his mouth, his arm, his thigh, and his foot.

88. ' To *Bráhmens* he assigned the duties of reading the *Véda*, of
' teaching it, of sacrificing, of assisting others to sacrifice, of giving
' alms, *if they be rich*, and, *if indigent*, of receiving gifts:

89. ' To defend the people, to give alms, to sacrifice, to read the
' *Véda*, to shun the allurements of sensual gratification, are in few
' words the duties of a *Cshatriya*:

90. ' To keep herds of cattle, to bestow largesses, to sacrifice, to
' read the scripture, to carry on trade, to lend at interest, and to
' cultivate land, are prescribed *or permitted* to a *Vaisya*:

91. ' One principal duty the supreme Ruler assigned to a *Súdra*; namely,
' to serve the beforementioned classes, without depreciating their worth.

92. ' Man

92. ' Man is declared purer above the navel ; but the self-existing
' Power declared the purest part of him to be the mouth :

93. ' Since the *Bráhmén* sprang from the most excellent part, since
' he was the first born, and since he possesses the *Véda*, he is by right
' the chief of this whole creation.

94. ' Him the Being, who exists of himself, produced in the
' beginning from his own mouth ; that, having performed holy
' rites, he might present clarified butter to the Gods, and cakes
' of rice to the progenitors of mankind, for the preservation of this
' world :

95. ' What created being then can surpass Him, with whose
' mouth the Gods of the firmament continually feast on clarified
' butter, and the manes of ancestors, on hallowed cakes ?

96. ' Of created things the most excellent are those which are
' animated ; of the animated, those which subsist by intelligence ;
' of the intelligent, mankind ; and of men, the sacerdotal class.

97. ' Of priests, those eminent in learning ; of the learned, those
' who know their duty ; of those who know it, such as perform it
' virtuously ; and of the virtuous, those who seek beatitude from a
' perfect acquaintance with scriptural doctrine.

98. ' The very birth of *Bráhmén* is a constant incarnation of
' *DHERMA*, *God of Justice* ; for the *Bráhmén* is born to promote justice,
' and to procure ultimate happiness.

99. ' When

99. ' When a *Bráhmén* springs to light, he is born above the
' world, the chief of all creatures, assigned to guard the treasury
' of duties religious and civil.

100. ' Whatever exists in the universe, is all in effect, *though not in*
' *form*, the wealth of the *Bráhmén*; since the *Bráhmén* is entitled
' to it all by his primogeniture and eminence of birth :

101. ' The *Bráhmén* eats but his own food; wears but his own
' apparel; and bestows but his own in alms : through the benevolence
' of the *Bráhmén*, indeed, other mortals enjoy life.

102. ' To declare the sacerdotal duties, and those of the other classes
' in due order, the sage MENU, sprung from the self-existing, pro-
' mulged this code of laws ;

103. ' A code, which must be studied with extreme care by every
' learned *Bráhmén*, and fully explained to his disciples, but *must be*
' *taught* by no other man of an inferior class.

104. ' The *Bráhmén*, who studies this book, having performed
' sacred rites, is perpetually free from offence in thought, in word,
' and in deed ;

105. ' He confers purity on his living family, on his ancestors, and
' on his descendants, as far as the seventh person ; and He alone
' deserves to possess this whole earth.

106. ' This most excellent code produces every thing auspicious ;
' this code increases understanding ; this code procures fame and long
' life ; this code leads to supreme bliss.

107. ' In

107. ' In this book appears the system of law in its full extent,
' with the good and bad properties of human actions, and the im-
' memorial customs of the four classes.

108. ' Immemorial custom is transcendent law, approved in the
' sacred scripture, and in the codes of divine legislators: let every man,
' therefore, of the three principal classes, who has a due reverence for
' the *supreme spirit which dwells in him*, diligently and constantly
' observe immemorial custom:

109. ' A man of the priestly, military, or commercial class, who
' deviates from immemorial usage, tastes not the fruit of the *Véda*;
' but, by an exact observance of it, he gathers that fruit in perfection.

110. ' Thus have holy sages, well knowing that law is grounded on
' immemorial custom, embraced, as the root of all piety, good usages
' long established.

111. ' The creation of this universe; the forms of institution and
' education, with the observances and behaviour of a student in theo-
' logy; the best rules for the ceremony on his return from the mansion
' of his preceptor;

112. ' The law of marriage in general, and of nuptials in different
' forms; the regulations for the great sacraments, and the manner,
' primevally settled, of performing obsequies;

113. ' The modes of gaining subsistence, and the rules to be observed
' by the master of a family; the allowance and prohibition of diet,
' with the purification of men and utensils;

114. ' Laws

114. ‘ Laws concerning women ; the devotion of hermits, and of
‘ anchorets wholly intent on final beatitude, the whole duty of a king,
‘ and the judicial decision of controversies,

115. ‘ With the law of evidence and examination ; laws concerning
‘ husband and wife, canons of inheritance ; the prohibition of gaming,
‘ and the punishments of criminals ;

116. ‘ Rules ordained for the mercantile and servile classes, with the
‘ origin of those, that are mixed ; the duties and rights of all the classes
‘ in time of distress for subsistence ; and the penances for expiating
‘ sins ;

117. ‘ The several transmigrations in this universe, caused by of-
‘ fences of three kinds, with the ultimate bliss attending good actions,
‘ on the full trial of vice and virtue ;

118. ‘ All these titles of law, promulgated by MENU, and *occasionally*
‘ the customs of different countries, different tribes, and different fami-
‘ lies, with rules concerning hereticks and companies of traders, are
‘ discussed in this code.

119. ‘ Even as MENU at my request formerly revealed this divine
‘ *Sástra*, hear it now from me without any diminution or addition.

CHAPTER THE SECOND.

On Education; or on the Sacerdotal Class, and the First Order.

1. **KNOW** that system of duties, which is revered by such as are
‘ learned in the *Védas*, and impressed, *as the means of attaining beati-*
‘ *tude*, on the hearts of the just, who are ever exempt from hatred
‘ and inordinate affection.

2. ‘ Self-love is no laudable motive, yet an exemption from self-love
‘ is not *to be found* in this world: on self-love is grounded the study of
‘ scripture, and the practice of actions recommended in it.

3. ‘ Eager desire *to act* has its root in expectation of some advantage;
‘ and with such expectation are sacrifices performed: the rules of reli-
‘ gious austerity and abstinence from sin are all known to arise from
‘ hope of remuneration.

4. ‘ Not a single act here below appears ever to be done by a man
‘ free from self-love: whatever he performs, it is wrought from his
‘ desire of a reward.

5. ‘ He, indeed, who should persist in *discharging* these duties with-
‘ out any view to their fruit, would attain hereafter the state of the
‘ immortals, and, even in this life, would enjoy all the virtuous gratifi-
‘ cations, that his fancy could suggest.

6. ‘ The

6. ‘ The roots of law are the whole *Véda*, the ordinances and
 ‘ moral practices of such as perfectly understand it, the immemorial
 ‘ customs of good men, and, *in cases quite indifferent*, self-satisfac-
 ‘ tion.

7. ‘ Whatever law has been ordained for any person by MENU, that
 ‘ law is fully declared in the *Véda*: for He was perfect in divine know-
 ‘ ledge:

8. ‘ A man of true learning, who has viewed this complete system
 ‘ with the eye of sacred wisdom, cannot fail to perform all those duties,
 ‘ which are ordained on the authority of the *Véda*.

9. ‘ No doubt, that man, who shall follow the rules prescribed in the
 ‘ *Sruti* and in the *Smṛiti*, will acquire fame in this life, and, in the
 ‘ next, inexpressible happiness:

10. ‘ By *Sruti*, or *what was heard from above*, is meant the *Véda*;
 ‘ and by *Smṛiti*, or *what was remembered from the beginning*, the body of
 ‘ law: those two must not be oppugned by heterodox arguments; since
 ‘ from those two proceeds the whole system of duties.

11. ‘ Whatever man of the three highest classes, having addicted
 ‘ himself to heretical books, shall treat with contempt those two roots
 ‘ of law, he must be driven, as an Atheist and a scorner of revelation,
 ‘ from the company of the virtuous.

12. ‘ The scripture, the codes of law, approved usage, and, *in all*
 ‘ *indifferent cases*, self-satisfaction, the wise have openly declared to be
 ‘ the quadruple description of the juridical system.

13. ‘ A

13. ' A knowledge of right is a sufficient incentive for men unattached to wealth or to sensuality ; and to those who seek a knowledge of right, the supreme authority is divine revelation ;

14. ' But, when there are two sacred texts *apparently inconsistent*, both are held to be law ; for both are pronounced by the wise to be valid and reconcilable ;

15. ' Thus in the *Vēda* are these texts : " let the sacrifice be when the sun has arisen," and, " before it has risen," and, " when neither sun nor stars can be seen : " the sacrifice, therefore, may be performed at any or all of those times.

16. ' He, whose life is regulated by holy texts, from his conception even to his funeral pile, has a decided right to study this code ; but no other man whatsoever.

17. ' BETWEEN the two divine rivers *Saraswatī* and *Dhṛiṣṭadwatī* lies the tract of land, which the sages have named *Brahmāvarta*, because it was frequented by Gods :

18. ' The custom, preserved by immemorial tradition in that country, among the four *pure* classes, and among those which are mixed, is called approved usage.

19. ' *Curuṣhētra*, *Matṣya*, *Panchāla*, or *Cānyacubja*, and *Sūrasēna*, or *Mat'hurā*, form the region, called *Brahmarṣhi*, distinguished from *Brahmāvarta* :

20. ' From a *Brāhmen*, who was born in that country, let all men on earth learn their several usages.

21. ' That

21. ‘ That country, which lies between *Himawāt* and *Vindhyā*, to the east of *Vinaśāna*, and to the west of *Prayāga*, is celebrated by the title of *Medhya-dēśa*, or *the central region*.

22. ‘ As far as the eastern, and as far as the western, oceans between the two mountains just mentioned, lies the tract, which the wise have named *Ariāvarta*, or *inhabited by respectable men*.

23. ‘ That land, on which the black antelope naturally grazes, is held fit for the performance of sacrifices; but the land of *Mlécch’has*, or *those who speak barbarously*, differs widely from it.

24. ‘ Let the three first classes invariably dwell in those before-mentioned countries; but a *Sūdra*, distressed for subsistence, may sojourn wherever he chuses.

25. ‘ Thus has the origin of law been succinctly declared to you, together with the formation of this universe: now learn the laws of the several classes.

26. ‘ WITH auspicious acts prescribed by the *Vēda*, must ceremonies on conception and so forth, be duly performed, which purify the bodies of the three classes in this life, and *qualify them* for the next.

27. ‘ By oblations to fire during the mother’s pregnancy, by holy rites on the birth of the child, by the tonsure of his head with a lock of hair left on it, by the ligation of the sacrificial cord, are the femi-
nal and uterine taints of the three classes wholly removed :

28. ‘ By studying the *Vēda*, by religious observances, by oblations to fire, by the ceremony of *Traividya*, by offering to the Gods and
‘ Manes,

‘ Manes, by the procreation of children, by the five great sacra-
 ‘ ments, and by solemn sacrifices, this human body is rendered fit for
 ‘ a divine state.

29. ‘ Before the section of the navel string a ceremony is ordained
 ‘ on the birth of a male : he must be made, while sacred texts are
 ‘ pronounced, to taste a little honey and clarified butter from a golden
 ‘ spoon.

30. ‘ Let the father *perform or, if absent*, cause to be performed,
 ‘ on the tenth or twelfth day *after the birth*, the ceremony of giving
 ‘ a name ; or on some fortunate day of the moon, at a lucky hour,
 ‘ and under the influence of a star with good qualities.

31. ‘ The first part of a *Bráhmén’s* compound name should indicate
 ‘ holiness ; of a *Cshatriya’s*, power ; of a *Vaisya’s*, wealth ; and of a
 ‘ *Súdra’s*, contempt :

32. ‘ Let the second part of the priest’s name imply prosperity ;
 ‘ of the soldier’s, preservation ; of the merchant’s, nourishment ; of
 ‘ the servant’s, humble attendance.

33. ‘ The names of women should be agreeable, soft, clear, cap-
 ‘ tivating the fancy, auspicious, ending in long vowels, resembling
 ‘ words of benediction.

34. ‘ In the fourth month the child should be carried out of the
 ‘ house *to see the sun* : in the sixth month, he should be fed with rice ;
 ‘ or that *may be done*, which, by the custom of the family, is thought
 ‘ most propitious.

35. ‘ By

35. ‘ By the command of the *Véda*, the ceremony of tonsure should
 ‘ be legally performed by the three *first* classes in the first or third
 ‘ year *after birth*.

36. ‘ In the eighth year from the conception of a *Bráhmen*, in the
 ‘ eleventh from that of a *Cshatriya*, and in the twelfth from that of
 ‘ a *Vaisya*, let the father invest the child with the mark of his class :

37. ‘ Should a *Bráhmen*, or *his father for him*, be desirous of his
 ‘ advancement in sacred knowledge, a *Cshatriya* of extending his
 ‘ power, or a *Vaisya* of engaging in mercantile business, the in-
 ‘ vestiture may be made in the fifth, sixth, or eighth years re-
 ‘ spectively.

38. ‘ The ceremony of investiture hallowed by the *gáyatrí* must
 ‘ not be delayed, in the case of a priest, beyond the sixteenth year ;
 ‘ nor, in that of a soldier, beyond the twenty-second; nor in that of
 ‘ a merchant, beyond the twenty-fourth.

39. ‘ After that, *all youths* of these three classes, who have not been
 ‘ invested at the proper time, become *vrátyas*, or outcasts, degraded
 ‘ from the *gáyatrí*, and condemned by the virtuous :

40. ‘ With such impure men, let no *Bráhmen*, even in distress for
 ‘ subsistence, ever form a connexion in law, either by the study of
 ‘ the *Véda*, or by affinity.

41. ‘ Let students in theology wear *for their mantles* the hides
 ‘ of black antelopes, of common deer, or of goats with *lower vests* of
 ‘ woven *sana*, of *cshumà*, and of wool, in the direct order of their classes.

42. ‘ The

42. ' The girdle of a priest must be made of *munja*, in a triple
' cord, smooth and soft; that of a warrior must be a bow string of
' *múrvá*; that of a merchant, a triple thread of *s'ana*.

43. ' If the *munja* be not procurable, their zones must be formed
' *respectively* of the grasses *cusa*, *asmántaca*, *valvaja*, in triple strings
' with one, three, or five knots, *according to the family custom*.

44. ' The sacrificial thread of a *Bráhma*n must be made of cotton,
' so as to be put on over his head, in three strings; that of a *Cshatriya*,
' of *s'ana* thread only; that of a *Vais'ya* of woollen thread.

45. ' A priest ought by law to carry a staff of *Bilva* or *Paláśa*, a
' foldier, of *Bata* or *C'hadira*; a merchant of *Vénu*, or *Udumbara*:

46. ' The staff of a priest must be of such a length as to reach his
' hair; that of a foldier, to reach his forehead; and that of a mer-
' chant, to reach his nose.

47. ' Let all the staves be straight, without fracture, of a handsome
' appearance, not likely to terrify men, with their bark perfect, unhurt
' by fire.

48. ' Having taken a legal staff to his liking, and standing opposite
' to the sun, let the student thrice walk round the fire from left to
' right, and perform, according to law, the ceremony of asking
' food:

49. ' The most excellent of the three classes, being girt with the
' sacrificial thread, must ask food with the respectful word *bhavati*,
' at the beginning of the phrase; those of the second class, with
VOL. III. N ' that

‘ that word in the middle ; and those of the third, with that word
‘ at the end.

50. ‘ Let him first beg food of his mother, or of his sister, or
‘ of his mother’s whole sister ; and then of some other female who
‘ will not disgrace him.

51. ‘ Having collected as much of the desired food as he has
‘ occasion for, and having presented it without guile to his preceptor,
‘ let him eat some of it, being duly purified, with his face to the east :

52. ‘ If he seek long life, he should eat with his face to the east ;
‘ if exalted fame, to the south ; if prosperity, to the west ; if truth *and*
‘ *its reward*, to the north.

53. ‘ Let the student, having performed his ablution, always eat his
‘ food without distraction of mind ; and, having eaten, let him *thrice*
‘ wash his mouth completely, sprinkling with water the *six* hollow
‘ parts of his head, *or his eyes, ears, and nostrils*.

54. ‘ Let him honour all his food, and eat it without contempt ;
‘ when he sees it, let him rejoice and be calm, and pray, that he may
‘ always obtain it.

55. ‘ Food, eaten constantly with respect, gives muscular force and
‘ generative power ; but, eaten irreverently, destroys them both.

56. ‘ He must beware of giving any man what he leaves ; and of
‘ eating any thing between *morning and evening* : he must also beware
‘ of eating too much, and of going any whither with a remnant
‘ of his food unswallowed.

57. ‘ Excessive

57. ' Excessive eating is prejudicial to health, to fame, and to
 ' future bliss in heaven ; it is injurious to virtue, and odious among
 ' men : he must, for these reasons, by all means avoid it.

58. ' Let a *Bráhmén* at all times perform the ablution with the pure
 ' part of his hand denominated from the *Véda*, or with the part sacred
 ' to the Lord of creatures, or with that dedicated to the Gods ; but
 ' never with the part named from the *Pitrīs* :

59. ' The pure part under the root of the thumb is called *Bráhma* ;
 ' that at the root of the little finger, *Cáya* ; that at the tips of
 ' the fingers, *Daiva* ; and the part between the thumb and index,
 ' *Pitrya*.

60. ' Let him first sip water thrice ; then twice wipe his mouth ;
 ' and lastly touch with water the *six before mentioned* cavities, his
 ' breast, and his head.

61. ' He, who knows the law, and seeks purity, will ever perform his
 ' ablution with the pure part of his hand, and with water neither
 ' hot nor frothy, standing in a lonely place, and turning to the east
 ' or the north.

62. ' A *Bráhmén* is purified by water that reaches his bosom ; a
 ' *Cshatriya*, by water descending to his throat ; a *Vaisya*, by water
 ' barely taken into his mouth ; a *Súdra* by water touched with the
 ' extremity of his lips.

63. ' A youth of the three highest classes is named *upavítí*, when
 ' his right hand is extended *for the cord to pass over his head and*
 ' *be fixed on his left shoulder* ; when his left hand is extended, *that*
 ' *the*

‘ *the thread may be placed on his right shoulder, he is called *prāchīndvīti*;*
 ‘ and *nivīti*, when it is fastened on his neck.

64. ‘ His girdle, his leathern mantle, his staff, his sacrificial cord,
 ‘ and his ewer, he must throw into the water, when they are worn
 ‘ out or broken, and receive others hallowed by mystical texts.

65. ‘ The ceremony of *cēśānta*, or *cutting off the hair*, is ordained
 ‘ for a priest in the sixteenth year from conception; for a soldier, in
 ‘ the twenty-second; for a merchant, two years later than that.

66. ‘ The same ceremonies, *except that of the sacrificial thread*,
 ‘ must be duly performed for women at the same age and in the same
 ‘ order, that the body may be made perfect; but without any texts
 ‘ from the *Vēda*:

67. ‘ The nuptial ceremony is considered as the complete institution
 ‘ of women, ordained for them in the *Vēda*, together with reverence
 ‘ to their husbands, dwelling first in their father’s family, the business
 ‘ of the house, and attention to sacred fire.

68. ‘ Such is the revealed law of institution for the twice born; an
 ‘ institution, in which their second birth clearly consists, and which
 ‘ causes their advancement in holiness: now learn to what duties they
 ‘ must afterwards apply themselves.

69. ‘ THE venerable preceptor, having girt his pupil with the
 ‘ thread, must first instruct him in purification, in good customs,
 ‘ in the management of the consecrated fire, and in the holy rites
 ‘ of morning, noon, and evening.

70. ‘ When

70. ‘ When the student is going to read the *Véda*, he must perform
 ‘ an ablution, as the law ordains, with his face to the north; and,
 ‘ having paid scriptural homage, he must receive instruction, wearing
 ‘ a clean vest, his members being duly composed:

71. ‘ At the beginning and end of the lecture, he must always clasp
 ‘ both the feet of his preceptor; and he must read with both his hands
 ‘ closed: (this is called scriptural homage.)

72. ‘ With crossed hands let him clasp the feet of his tutor, touching
 ‘ the left foot with his left, and the right with his right, hand.

73. ‘ When he is prepared for the lecture, the preceptor, constantly
 ‘ attentive, must say: “hoa! read;” and, at the close of the lesson, he
 ‘ must say: “take rest.”

74. ‘ A *Bráhmen*, beginning and ending a lecture on the *Véda*, must
 ‘ always pronounce to himself the syllable *óm*; for, unless the syllable
 ‘ *óm* precede, his learning will slip away from him; and, unless it
 ‘ follow, nothing will be long retained.

75. ‘ If he have fitten on culms of *cus’a* with their points toward
 ‘ the east, and be purified by *rubbing* that holy grass on both his
 ‘ hands, and be further prepared by three suppressions of breath, *each*
 ‘ *equal in time to five short vowels*, he then may fitly pronounce *óm*.

76. ‘ BRAHMA’ milked out, *as it were*, from the three *Védas*, the
 ‘ letter A, the letter U, and the letter M, *which form by their coalition*
 ‘ *the trilateral monosyllable*, together with three mysterious words, *bhur*,
 ‘ *bhuvah*, *swar*, or *earth*, *sky*, *heaven*:

77. ‘ From

77. ' From the three *Védas* also the Lord of creatures, incomprehensibly exalted, successively milked out the three measures of that ineffable text, beginning with the word *tad*, and entitled *śāvitṛi* or *gāyatrī*.

78. ' A priest who shall know the *Véda*, and shall pronounce to himself, both morning and evening, that syllable, and that holy text preceded by the three words, shall attain the sanctity which the *Véda* confers ;

79. ' And a twice born man, who shall a thousand times repeat those three (or *óm*, the *vyáhr̥tis*, and the *gāyatrī*,) apart from the multitude, shall be released in a month even from a great offence, as a snake from his slough.

80. ' The priest, the soldier, and the merchant, who shall neglect this mysterious text, and fail to perform in due season his peculiar acts of piety, shall meet with contempt among the virtuous.

81. ' The three great immutable words, preceded by the triliteral syllable, and followed by the *gāyatrī*, which consists of three measures, must be considered as the mouth, or *principal part*, of the *Véda* :

82. ' Whoever shall repeat, day by day for three years, without negligence, that sacred text, shall *hereafter* approach the divine essence, move as freely as air, and assume an ethereal form.

83. ' The triliteral monosyllable is *an emblem of* the Supreme; the suppressions of breath *with a mind fixed on God*, are the highest devotion ; but nothing is more exalted than the *gāyatrī* : *a declaration of* truth is more excellent than silence.

84. ' All

84. ' All rites ordained in the *Véda*, oblations to fire, and solemn
' sacrifices, pass away ; but that, which passes not away, is declared to
' be the syllable *óm*, thence called *acshara* ; since it is a *symbol of God*,
' the Lord of created Beings.

85. ' The act of repeating his Holy Name is ten times better
' than the appointed sacrifice ; a hundred times better, when it is
' heard by no man ; and a thousand times better, when it is purely
' mental :

86. ' The four domestic sacraments, which are accompanied with the
' appointed sacrifice, are not equal, though all be united, to a sixteenth
' part of the sacrifice performed by a repetition of the *gáyatrí* :

87. ' By the sole repetition of the *gáyatrí*, a priest may indubitably
' attain beatitude, let him perform, or not perform, any other religious
' act ; if he be *Maitra*, or a *friend to all creatures*, he is *justly* named
' *Bráhmena*, or *united to the Great One*.

88. ' IN restraining the organs, which run wild among ravishing
' sensualities, a wise man will apply diligent care, like a charioteer in
' managing restive horses.

89. ' Those eleven organs, to which the first sages gave names, I
' will comprehensively enumerate, as the law considers them, in due
' order.

90. ' The nose is the fifth, after the ears, the skin, the eyes, and the
' tongue ; and the organs of speech are reckoned the tenth, after those
' of excretion and generation, and the hands and feet :

91. ' Five

91. ' Five of them, the ear and the rest in fucceffion, learned men
' have called organs of fenfe ; and the others, organs of action :

92. ' The heart muft be confidered as the eleventh ; which, by its
' natural property, comprises both fenfe and action ; and which being
' fubdued, the two other fets, with five in each, are alfo controlled.

93. ' A man, by the attachment of his organs to fenfual pleafure,
' incurs certain guilt ; but, having wholly fubdued them, he thence
' attains heavenly blifs.

94. ' Defire is never fatisfied with the enjoyment of defired objects ;
' as the fire is not appeafed with clarified butter : it only blazes more
' vehemently.

95. ' Whatever man may obtain all thofe gratifications, or whatever
' man may refign them completely, the refignation of all pleafures is
' far better than the attainment of them.

96. ' The organs, being ftrongly attached to fenfual delights, cannot
' fo effectually be reftained by avoiding incentives to pleafure, as by a
' constant purfuit of divine knowledge.

97. ' To a man contaminated by fenfuality neither the *Védas*, nor
' liberality, nor facrifices, nor ftrict obfervances, nor pious austerities,
' ever procure felicity.

98. ' He muft be confidered as really triumphant over his organs,
' who, on hearing and touching, on feeing and tafting and fmelling,
' *what may please or offend the fenfes*, neither greatly rejoices nor greatly
' repines .

99. ' But,

99. ' But, when one among all his organs fails, by that single failure,
' his knowledge of God passes away, as water flows through one hole
' in a leathern bottle.

100. ' Having kept all his members *of sense and action* under control,
' and obtained also command over his heart, he will enjoy every
' advantage, even though he reduce not his body by religious auster-
' ities.

101. ' At the morning twilight, let him stand repeating the *gáyatrí*,
' until he see the sun; and, at evening twilight, let him repeat it
' fitting, until the stars distinctly appear :

102. ' He, who stands repeating it at the morning twilight, removes
' *all unknown* nocturnal sin; and he, who repeats it fitting at evening
' twilight, disperses the taint, that has *unknowingly* been contracted in
' the day ;

103. ' But he, who stands not repeating it in the morning, and fits
' not repeating it in the evening, must be precluded, like a *Súdra*,
' from every sacred observance of the twice born classes.

104. ' Near pure water, with his organs holden under control, *and*
' retiring with circumspection to some unfrequented place, let him
' pronounce the *gáyatrí*, performing daily ceremonies.

105. ' In reading the *Védāngas*, or *grammar, prosody, mathematicks,*
' *and so forth*, or even such parts of the *Vēda*, as ought constantly to
' be read, there is no prohibition on particular days; nor in pronounc-
' ing the texts appointed for oblations to fire :

106. ' Of that, which must constantly be read, and is therefore
 ' called *Brabmasatra*, there can be no such prohibition; and the obla-
 ' tion to fire, according to the *Véda*, produces good fruit, though ac-
 ' companied with the text *vasbat'*, which *on other occasions* must be
 ' intermitted on certain days.

107. ' For him, who shall persist a whole year in reading the *Véda*,
 ' his organs being kept in subjection, and his body pure, there will
 ' always rise good fruit from his *offerings* of milk and curds, *of* clarified
 ' butter and honey.

108. ' LET the twice born youth, who has been girt with the sacri-
 ' ficial cord, collect wood for the holy fire, beg food of his relations,
 ' sleep on a low bed, and perform such offices as may please his pre-
 ' ceptor, until his return to the house of his natural father.

109. ' Ten persons may legally be instructed in the *Véda*; the son
 ' of a spiritual teacher; a boy, who is assiduous; one who can impart
 ' other knowledge; one who is just; one who is pure; one who is
 ' friendly; one who is powerful; one who can bestow wealth; one
 ' who is honest; and one who is related by blood.

110. ' Let not a sensible teacher tell any *other* what he is not asked,
 ' nor what he is asked improperly; but let him, however intelligent,
 ' act in the multitude, as if he were dumb:

111. ' Of the two persons, him, who illegally asks, and him, who
 ' illegally answers, one will die, or incur odium.

112. ' Where virtue, and wealth *sufficient to secure it*, are not found,
 ' or diligent attention, *at least proportioned to the holiness of the subject*,
 ' in

‘ in that foil divine instruction must not be sown: it would perish
‘ like fine seed in barren land.

113. ‘ A teacher of the *Véda* should rather die with his learning,
‘ than sow it in sterile foil, even though he be in grievous distress for
‘ subsistence.

114. ‘ Sacred Learning, having approached a *Bráhmén*, said to him:
“ I am thy precious gem; preserve me with care; deliver me not to
“ a scorn; (so *preserved* I shall become supremely strong)

115. “ But communicate me, as to a vigilant depositary of thy gem,
“ to that student, whom thou shalt know to be pure, to have subdued
“ his passions, to perform the duties of his order.”

116. ‘ He, who shall acquire *knowledge of the Véda*, without the
‘ assent of his preceptor, incurs the guilt of stealing the scripture, and
‘ shall sink to the region of torment.

117. ‘ From whatever teacher a student has received instruction,
‘ either popular, ceremonial, or sacred, let him first salute his in-
‘ structor, when they meet.

118. ‘ A *Bráhmén*, who completely governs his passions, though he
‘ know the *gáyatrí* only, is more honourable than he, who governs not
‘ his passions, who eats all *sorts of food*, and sells all *sorts of commo-
‘ ties*, even though he know the three *Védas*.

119. ‘ When a superiour sits on a couch or bench, let not an inferiour
‘ sit on it with him; and, if an inferiour be sitting on a couch, let him
‘ rise to salute a superiour.

120. ‘ The

120. ‘ The vital spirits of a young man mount upwards *to depart*
 ‘ *from him*, when an elder approaches ; but, by rising and salutation, he
 ‘ recovers them.

121. ‘ A youth, who habitually greets and constantly reveres the
 ‘ aged, obtains an increase of four things ; life, knowledge, fame,
 ‘ strength.

122. ‘ After the word of salutation, a *Bráhmén* must address an
 ‘ elder, saying : “ I am such an one ;” pronouncing his own name.

123. ‘ If any persons, *through ignorance of the Sanscrit language*,
 ‘ understand not the import of his name, to them should a learned man
 ‘ say : “ It is I ;” and in that manner he should address all *classes of*
 ‘ women.

124. ‘ In the salutation he should pronounce, after his own name,
 ‘ the vocative particle *bhós* ; for the particle *bhós* is held by the wife to
 ‘ have the same property with names *fully expressed*.

125. ‘ A *Bráhmén* should thus be saluted in return : “ May’st thou
 “ live long, excellent man !” and, at the end of his name, the vowel
 ‘ and preceding consonant should be lengthened, *with an acute accent*,
 ‘ to three syllabick moments, *or short vowels*.

126. ‘ That *Bráhmén*, who knows not the form of returning a salu-
 ‘ tation, must not be saluted by a man of learning : as a *Súdra*, even
 ‘ so is he.

127. ‘ Let a learned man ask a priest, when he meets him, if his
 ‘ devotion prospers ; a warrior, if he is unhurt ; a merchant, if his
 ‘ wealth

‘ wealth is secure; and one of the fervile class, if he enjoys good
 ‘ health; *using respectively the words*, cusalam, anamayam, cshémam,
 ‘ and árógyam.

128. ‘ He, who has just performed a solemn sacrifice and
 ‘ ablution, must not be addressed by his name, even though he be
 ‘ a younger man; but he, who knows the law, should accost him
 ‘ with the vocative particle, or with *bhavat*, the pronoun of re-
 ‘ spect.

129. ‘ To the wife of another, and to any woman not related by
 ‘ blood, he must say “*bhavati*, and amiable sister.”

130. ‘ To his uncles paternal and maternal, to his wife’s father, to
 ‘ performers of the sacrifice, and to spiritual teachers, he must say:
 ‘ “I am such an one”—rising up to salute them, even though younger
 ‘ than himself.

131. ‘ The sister of his mother, the wife of his maternal uncle, his
 ‘ own wife’s mother, and the sister of his father, must be saluted like
 ‘ the wife of his father or preceptor: they are equal to his father’s or
 ‘ his preceptor’s wife.

132. ‘ The wife of his brother, if she be of the same class, must be
 ‘ saluted every day; but his paternal and maternal kinswomen need
 ‘ only be greeted on his return from a journey.

133. ‘ With the sister of his father and of his mother, and with his
 ‘ own elder sister, let him demean himself as with his mother; though
 ‘ his mother be more venerable than they.

134. ‘ Fel-

134. ‘ Fellow citizens are equal for ten years; dancers and fingers,
 ‘ for five; learned theologians, for less than three; but persons related
 ‘ by blood, for a short time: *that is, a greater difference of age destroys*
 ‘ *their equality.*

135. ‘ The student must consider a *Bráhmén*, though but ten years
 ‘ old, and a *Cshatriya*, though aged a hundred years, as father and
 ‘ son; as between those two, the young *Bráhmén* is *to be respected as*
 ‘ the father.

136. ‘ Wealth, kindred, age, moral conduct, and, fifthly, divine
 ‘ knowledge, entitle men to respect; but that, which is last mentioned
 ‘ in order, is the most respectable.

137. ‘ Whatever man of the three *highest* classes possesses the most
 ‘ of those five, both in number and degree, that man is entitled to most
 ‘ respect; even a *Súdra*, if he have entered the tenth decad of his age.

138. ‘ Way must be made for a man in a wheeled carriage, or
 ‘ above ninety years old, or afflicted with disease, or carrying a bur-
 ‘ den; for a woman; for a priest just returned from the mansion of
 ‘ his preceptor; for a prince, and for a bridegroom:

139. ‘ Among all those, if they be met at one time, the priest just
 ‘ returned home and the prince are most to be honoured; and of
 ‘ those two, the priest just returned should be treated with more
 ‘ respect than the prince.

140. ‘ That priest, who girds his pupil with the sacrificial cord, and
 ‘ afterwards instructs him in the whole *Véda*, with the law of sacrifice
 ‘ and the sacred *Upanishads*, holy sages call an *áchárya*:

141. ‘ But

141. ‘ But he, who, for his livelihood, gives instruction in a part
 ‘ only of the *Véda*, or in grammar, and other *Védāngas*, is called an
 ‘ *upādhyāya*, or fublecturer.

142. ‘ The father, who performs the ceremonies on conception and
 ‘ the like, according to law, and who nourishes the child with his
 ‘ first rice, has the epithet of *guru*, or venerable.

143. ‘ He, who receives a stipend for preparing the holy fire, for
 ‘ conducting the *pāca* and *agnishtōma*, and for performing other sacri-
 ‘ fices, is called in this code the *ritwij* of his employer.

144. ‘ He, who truly and faithfully fills both ears with the *Véda*,
 ‘ must be considered as equal to a mother; He must be revered as a
 ‘ father; Him the pupil must never grieve.

145. ‘ A mere *āchārya*, or a teacher of the *gāyatrī* only, surpasses ten
 ‘ *upādhyāyas*; a father, a hundred such *āchāryas*; and a mother, a
 ‘ thousand natural fathers.

146. ‘ Of him, who gives natural birth, and him, who gives know-
 ‘ ledge of the whole *Véda*, the giver of sacred knowledge is the more
 ‘ venerable father; since the *second* or divine birth ensures life to the
 ‘ twice born both in this world and hereafter eternally.

147. ‘ Let a man consider that as a mere human birth, which his
 ‘ parents gave him for their mutual gratification, and which he re-
 ‘ ceives after lying in the womb;

148. ‘ But that birth, which his principal *āchārya* who knows the
 ‘ whole *Véda*, procures for him by his *divine mother* the *Gāyatrī*, is a
 ‘ true birth: that birth is exempt from age and from death.

149. ‘ Him,

149. ‘ Him, who confers on a man the benefit of sacred learning,
 ‘ whether it be little or much, let him know to be here named *guru*,
 ‘ or *venerable father*, in consequence of that heavenly benefit.

150. ‘ A *Bráhmén*, who is the giver of spiritual birth, the teacher of
 ‘ prescribed duty, is by right *called* the father of an old man, though
 ‘ himself be a child.

151. ‘ *CAVI*, or *the learned*, child of *ANGIRAS*, taught his paternal
 ‘ uncles and cousins to read the *Véda*, and, excelling them in divine
 ‘ knowledge, said to them “ little sons :”

152. ‘ They, moved with repentment, asked the Gods the meaning
 ‘ of that *expression*; and the Gods, being assembled, answered them :
 “ The child has addressed you properly ;

153. “ For an unlearned man is in truth a child ; and he, who teaches
 “ him the *Véda*, is his father : holy sages have always said child to an
 “ ignorant man, and father to a teacher of scripture.”

154. ‘ Greatness is not conferred by years, not by gray hairs, not
 ‘ by wealth, not by powerful kindred : the divine sages have esta-
 ‘ blished this rule : “ Whoever has read the *Védas* and their *Angas*,
 “ He among us is great.”

155. ‘ The seniority of priests is from sacred learning ; of warriors,
 ‘ from valour ; of merchants, from abundance of grain ; of the servile
 ‘ class, only from priority of birth.

156. ‘ A man is not therefore aged, because his head is gray : him,
 ‘ surely, the Gods considered as aged, who, though young in years,
 ‘ has read *and understands* the *Véda*.

157. ‘ As

157. ' As an elephant made of wood, as an antelope made of leather, such is an unlearned *Bráhmén*: those three have nothing but names.

158. ' As an eunuch is unproductive with women, as a cow with a cow is unprolifick, as liberality to a fool is fruitless, so is a *Bráhmén* useless, if he read not the holy texts.

159. ' Good instruction must be given without pain to the instructed; and sweet gentle speech must be used by a preceptor, who cherishes virtue.

160. ' He, whose discourse and heart are pure, and ever perfectly guarded, attains all the fruit arising from his complete course of studying the *Véda*.

161. ' Let not a man be querulous, even though in pain; let him not injure another in deed or in thought; let him not even utter a word, by which his fellow creature may suffer uneasiness; since that will obstruct his own progress to future beatitude.

162. ' A *Bráhmén* should constantly shun wordly honour, as he would shun poison; and rather constantly seek disrespect, as he would seek nectar;

163. ' For though scorned, he may sleep with pleasure; with pleasure may he awake; with pleasure may he pass through this life: but the scorner utterly perishes.

164. ' Let the twice born youth, whose soul has been formed by this regular succession of prescribed acts, collect by degrees, while

‘ he dwells with his preceptor, the devout habits proceeding from the
 ‘ study of scripture.

165. ‘ With various modes of devotion, and with austerities or-
 ‘ dained by the law, must the whole *Véda* be read, and above all
 ‘ the sacred *Upanishads*, by him, who has received a new birth.

166. ‘ Let the best of the twice born classes, intending to practise
 ‘ devotion, continually repeat the reading of scripture; since a re-
 ‘ petition of reading the scripture is here styled the highest devotion of
 ‘ a *Bráhmen*:

167. ‘ Yes verily; that student in theology performs the highest act
 ‘ of devotion *with his whole body* to the extremities of his nails, even
 ‘ though he *be so far sensual as to* wear a chaplet of sweet flowers, who
 ‘ to the utmost of his ability daily reads the *Véda*.

168. ‘ A twice born man, who, not having studied the *Véda*, applies
 ‘ diligent attention to a different *and worldly* study, soon falls, even
 ‘ when living, to the condition of a *Súdra*; and his descendants after
 ‘ him.

169. ‘ The first birth is from a natural mother; the second, from the
 ‘ ligation of the zone; the third, from the due performance of the
 ‘ sacrifice; such are the births of him, who is usually called twice born,
 ‘ according to the text of the *Véda*:

170. ‘ Among them his divine birth is that, which is distinguished
 ‘ by the ligation of the zone *and sacrificial cord*; and in that *birth*
 ‘ the *Gáyatri* is his mother, and the *A’charya*, his father.

171. ‘ Sages

171. ‘ Sages call the *A'charya* father from his giving instruction in
‘ the *Véda*: nor can any holy rite be performed by a young man
‘ before his investiture.

172. ‘ *Till he be invested with the signs of his class*, he must not pro-
‘ nounce any sacred text, except what ought to be used in obsequies
‘ to an ancestor; since he is on a level with a *Súdra* before his new
‘ birth from the revealed scripture:

173. ‘ From him, who has been duly invested, are required both
‘ the performance of devout acts, and the study of the *Véda* in order,
‘ preceded by stated ceremonies.

174. ‘ Whatever sort of leathern mantle, sacrificial thread, and
‘ zone, whatever staff, and whatever under-apparel are ordained, *as*
‘ *before mentioned*, for a youth of each class, the like must also be
‘ used in his religious acts.

175. ‘ These *following* rules must a *Brahmachári*, or *student in theology*,
‘ observe, while he dwells with his preceptor; keeping all his members
‘ under control, for the sake of increasing his habitual devotion.

176. ‘ Day by day, having bathed and being purified, let him offer
‘ fresh water to the Gods, the Sages, and the Manes; let him show
‘ respect to the images of the deities, and bring wood for the oblation
‘ to fire.

177. ‘ Let him abstain from honey, from flesh meat, from perfumes,
‘ from chaplets of flowers, from sweet vegetable juices, from women,
‘ from all sweet substances turned acid, and from injury to animated
‘ beings;

178. ‘ From

178. ‘ From unguents for his limbs, and from black powder for
 ‘ his eyes, from wearing fandals and carrying an umbrella, from
 ‘ sensual desire, from wrath, from covetousness, from dancing, and
 ‘ from vocal and instrumental music ;

179. ‘ From gaming, from disputes, from detraction, and from false-
 ‘ hood, from embracing or wantonly looking at women, and from
 ‘ disservice to other men.

180. ‘ Let him sleep constantly alone : let him never waste his own
 ‘ manhood ; for he, who voluntarily wastes his manhood, violates the
 ‘ rule of his order, *and becomes an avacirni* :

181. ‘ A twice born youth, who has involuntarily wasted his manly
 ‘ strength during sleep, must repeat with reverence, having bathed and
 ‘ paid homage to the sun, this text of scripture : “ *Again let my strength*
 “ *return to me.*”

182. ‘ Let him carry water-pots, flowers, cow-dung, fresh earth,
 ‘ and *cus’a*-glafs, as much as may be useful to his preceptor ; and let
 ‘ him perform every day the duty of a religious mendicant.

183. ‘ Each day must a *Bráhmén* student receive his food by begging,
 ‘ with due care, from the houses of persons renowned for discharging
 ‘ their duties, and not deficient in performing the sacrifices, which the
 ‘ *Véda* ordains.

184. ‘ Let him not beg from the cousins of his preceptor ; nor from
 ‘ his own cousins ; nor from other kinsmen by the father’s side, or by
 ‘ the mother’s ; but, if other houses be not accessible, let him begin
 ‘ with the last of those in order, avoiding the first ;

185. ‘ Or,

185. ' Or, if none of those *houses* just mentioned can be found,
' let him go begging through the whole district round the village,
' keeping his organs in subjection, and remaining silent: but let him
' turn away from such, as have committed any deadly sin.

186. ' Having brought logs of wood from a distance, let him place
' them in the open air; and with them let him make an oblation to
' fire, without remissness, both evening and morning.

187. ' He, who for seven successive days omits the ceremony of
' begging food, and offers not wood to the sacred fire, must perform the
' penance of an *avacirni*, unless he be afflicted with illness.

188. ' Let the student persist constantly in such begging, but let him
' not eat the food of one person only: the subsistence of a student by
' begging is held equal to fasting *in religious merit*.

189. ' Yet, when he is asked on a solemn act in honour of the Gods
' or the Manes, he may eat at his pleasure the food of a single person;
' observing, however, the laws of abstinence and the austerity of an
' anchorite: thus the rule of his order is kept inviolate.

190. ' This duty of a mendicant is ordained by the wife for a *Bráhmén*
' only; but no such act is appointed for a warrior or for a merchant.

191. ' Let the scholar, when commanded by his preceptor, and
' even when he has received no command, always exert himself in
' reading, and in all acts useful to his teacher.

192. ' Keeping in due subjection his body, his speech, his organs
' of sense, and his heart, let him stand, with the palms of his hands
' joined, looking at the face of his preceptor.

193. ' Let

193. ' Let him always keep his right arm uncovered, be always
' decently apparelled, and properly composed; and, when his instructor
' says "be seated," let him sit opposite to his venerable guide.

194. ' In the presence of his preceptor let him always eat lefts, and
' wear a coarser mantle with worse appendages: let him rise before,
' and go to rest after, his tutor.

195. ' Let him not answer his teacher's orders, or converse with
' him, reclining on a bed; nor sitting, nor eating, nor standing, nor
' with an averted face:

196. ' But let him both *answer and converse*, if his preceptor sit,
' standing up; if he stand, advancing toward him; if he advance,
' meeting him; if he run, hastening after him;

197. ' If his face be averted, going round to front him, *from left to*
' *right*; if he be at a little distance, approaching him; if reclined,
' bending to him; and, if he stand ever so far off, running toward
' him.

198. ' When his teacher is nigh, let his couch or his bench be
' always placed low: when his preceptor's eye can observe him, let
' him not sit carelessly at ease.

199. ' Let him never pronounce the mere name of his tutor, even
' in his absence; nor ever mimic his gait, his speech, or his manner.

200. ' In whatever place, either true but censorious, or false and
' defamatory, discourse is held concerning his teacher, let him there
' cover his ears, or remove to another place.

201. ' By

201. ' By censuring his preceptor, though justly, he will be born an
' afs; by falsely defaming him, a dog; by using his goods without
' leave, a small worm; by envying his merit, a larger insect or
' reptile.

202. ' He must not serve his tutor by the intervention of another,
' while himself stands aloof; nor must he attend him in a passion, nor
' when a woman is near: from a carriage or raised seat he must de-
' scend to salute his heavenly director.

203. ' Let him not sit with his preceptor to the leeward or to the
' windward of him; nor let him say any thing, which the venerable
' man cannot hear.

204. ' He may sit with his teacher in a carriage drawn by bulls,
' horses, or camels; on a terrace, on a pavement of stones, or on a
' mat of woven grass; on a rock, on a wooden bench, or in a boat.

205. ' When his tutor's tutor is near, let him demean himself as if
' his own were present; nor let him, unless ordered by his spiritual
' father, prostrate himself *in his presence* before his natural father, or
' paternal uncle.

206. ' This is likewise ordained as his constant behaviour toward
' his other instructors in science; toward his elder paternal kinsmen;
' toward all, who may restrain him from sin, and all, who give him
' salutary advice.

207. ' Toward men also, who are truly virtuous, let him always
' behave as toward his preceptor; and, in like manner toward the
' sons of his teacher, who are entitled to respect *as older men, and*
' are

‘ *are not students*; and toward the paternal kinsmen of his venerable
‘ tutor.

208. ‘ The son of his preceptor, whether younger or of equal age,
‘ or a student, if he be capable of teaching the *Véda*, deserves the same
‘ honour with the preceptor himself, *when he is present* at any sacri-
‘ ficial act :

209. ‘ But he must not perform for the son of his teacher the duty
‘ of rubbing his limbs, or of bathing him, or of eating what he leaves,
‘ or of washing his feet.

210. ‘ The wives of his preceptor, if they be of the same class, must
‘ receive equal honour with their venerable husband ; but, if they be of
‘ a different class, they must be honoured only by rising and salutation.

211. ‘ For no wife of his teacher must he perform the offices of
‘ pouring scented oil on them, of attending them while they bathe, of
‘ rubbing their legs and arms, or of decking their hair ;

212. ‘ Nor must a young wife of his preceptor be greeted even by
‘ the ceremony of touching her feet, if he have completed his twen-
‘ tieth year, or can distinguish virtue from vice.

213. ‘ It is the nature of women in this world to cause the seduction
‘ of men ; for which reason the wife are never unguarded in the com-
‘ pany of females :

214. ‘ A female, indeed, is able to draw from the right path in this
‘ life not a fool only, but even a sage, and can lead him in subjection
‘ to desire or to wrath.

215. ‘ Let

215. ' Let not a man, therefore, sit in a sequestered place with his
' nearest female relations : the assemblage of corporeal organs is pow-
' erful enough to snatch wisdom from the wife.

216. ' A young student may, as the law directs, make prostration
' at his pleasure on the ground before a young wife of his tutor, say-
' ing : " I am such an one ;"

217. ' And, on his return from a journey, he must once touch the
' feet of his preceptor's *aged* wife, and salute her each day by prostra-
' tion, calling to mind the practice of virtuous men.

218. ' As he, who digs deep with a spade, comes to a spring of water,
' so the student, who humbly serves his teacher, attains the knowledge
' which lies deep in his teacher's mind.

219. ' WHETHER his head be shorn, or his hair long, or one lock
' be bound above in a knot, let not the sun ever set or rise, while he lies
' asleep in the village.

220. ' If the sun should rise or set, while he sleeps through sensual
' indulgence, and knows it not, he must fast a whole day repeating
' the *gáyatri* :

221. ' He, who has been surprised asleep by the setting or by the
' rising sun, and performs not that penance, incurs great guilt.

222. ' Let him adore God both at sunrise and at sunset, as the law
' ordains, having made his ablution and keeping his organs controlled ;
' and, with fixed attention, let him repeat the text, which he ought to
' repeat, in a place free from impurity.

223. ' If a woman or a *Súdra* perform any act leading to the chief
 ' temporal good, let the student be careful to emulate it; and he may
 ' do whatever gratifies his heart, unless it be forbidden by law :

224. ' The chief temporal good is by some declared to consist in
 ' virtue and wealth; by some, in wealth and lawful pleasure; by some,
 ' in virtue alone; by others, in wealth alone; but the chief good here
 ' below is an assemblage of all three: this is a sure decision.

225. ' A TEACHER of the *Véda* is the image of God; a natural
 ' father, the image of BRAHMA'; a mother, the image of the earth;
 ' an elder whole brother, the image of the soul:

226. ' Therefore, a spiritual and a natural father, a mother, and an
 ' elder brother, are not to be treated with disrespect, especially by a
 ' *Bráhma*n, though the student be grievously provoked.

227. ' That pain and care, which a mother and father undergo in
 ' producing and rearing children, cannot be compensated in an hundred
 ' years.

228. ' Let every man constantly do what may please his parents,
 ' and on all occasions what may please his preceptor: when those
 ' three are satisfied, his whole course of devotion is accomplished.

229. ' Due reverence to those three is considered as the highest devo-
 ' tion; and without their approbation he must perform no other duty.

230. ' Since they alone are held equal to the three worlds; they
 ' alone, to the three principal orders; they alone, to the three *Védas*;
 ' they alone, to the three fires:

231. ' The

231. ' The natural father is considered as the *gárhapatya*, or nuptial
 ' fire; the mother, as the *dacshina*, or ceremonial; the spiritual guide,
 ' as the *dhavanīya*, or sacrificial: this triad of fires is most venerable.

232. ' He, who neglects not those three, when he becomes a house-
 ' keeper, will ultimately obtain dominion over the three worlds; and,
 ' his body being irradiated like a God, he will enjoy supreme bliss in
 ' heaven.

233. ' By honouring his mother he gains this *terrestrial* world; by
 ' honouring his father, the intermediate, or *etherial*; and, by assiduous
 ' attention to his preceptor, even the *celestial* world of BRAHMA':

234. ' All duties are completely performed by that man, by whom
 ' those three are completely honoured; but to him, by whom they are
 ' dishonoured, all other acts of duty are fruitless.

235. ' As long as those three live, so long he must perform no other
 ' duty *for his own sake*; but, delighting in what may conciliate their
 ' affections and gratify their wishes, he must from day to day assiduously
 ' wait on them:

236. ' Whatever duty he may perform in thought, word, or deed,
 ' with a view to the next world, without derogation from his respect
 ' to them, he must declare to them his entire performance of it.

237. ' By honouring those three, without more, a man effectually
 ' does whatever ought to be done: this is the highest duty, appearing
 ' before us like DHERMA himself, and every other act is an *Upadherma*,
 ' or subordinate duty.

238. ' A

238. ' A believer in scripture may receive pure knowledge even
 ' from a *Súdra*; a lesson of the highest virtue, even from a *Chandála*;
 ' and a woman bright as a gem, even from the basest family:

239. ' Even from poison may nectar be taken; even from a child,
 ' gentleness of speech; even from a foe, prudent conduct; and even
 ' from an impure substance, gold.

240. ' From every quarter, therefore, must be selected women bright
 ' as gems, knowledge, virtue, purity, gentle speech, and various liberal
 ' arts.

241. ' IN case of necessity, a student is required to learn the *Véda*
 ' from one who is not a *Bráhmen*, and, as long as that instruction con-
 ' tinues, to honour his instructor with obsequious assiduity;

242. ' But a pupil, who seeks the incomparable path to heaven,
 ' should not live to the end of his days in the dwelling of a precep-
 ' tor, who is no *Bráhmen*, or who has not read all the *Védas* with their
 ' *Angas*.

243. ' If he anxiously desire to pass his whole life in the house of a
 ' sacerdotal teacher, he must serve him with assiduous care, till he be
 ' released from his mortal frame:

244. ' That *Bráhmen*, who has dutifully attended his preceptor till
 ' the dissolution of his body, passes directly to the eternal mansion of
 ' God.

245. ' LET not a student, who knows his duty, present any gift to
 ' his preceptor *before his return home*; but when, by his tutor's permif-
 ' sion,

‘ fion, he is going to perform the ceremony on his return, let him give
‘ the venerable man some valuable thing to the best of his power ;

246. ‘ A field, or gold, a jewel, a cow, or a horse, an umbrella,
‘ a pair of sandals, a stool, corn, cloths, or even any very excellent
‘ vegetable : thus will he gain the affectionate remembrance of his
‘ instructor.

247. ‘ The student for life must, if his teacher die, attend on his
‘ virtuous son, or his widow, or on one of his paternal kinsmen, with
‘ the same respect, which he showed to the living :

248. ‘ Should none of those be alive, he must occupy the station of
‘ his preceptor, the seat, and the place of religious exercises ; must
‘ continually pay due attention to the fires, which he had consecrated ;
‘ and must prepare his own soul for heaven.

249. ‘ The twice born man, who shall thus without intermission
‘ have passed the time of his studentship, shall ascend after death to
‘ the most exalted of regions, and no more again spring to birth in this
‘ lower world.

CHAPTER THE THIRD.

On Marriage; or, on the Second Order.

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1. **T**HE discipline of a student in the three *Védas* may be continued
 ‘ for thirty-six years, in the house of his preceptor; or for half that
 ‘ time, or for a quarter of it, or until he perfectly comprehend them:

 2. ‘ A student, whose rules have not been violated, may assume the
 ‘ order of a married man, after he has read in succession a *śác’há*, or
 ‘ branch, from each of the three, or from two, or from any one of
 ‘ them.

 3. ‘ Being justly applauded for the strict performance of his duty,
 ‘ and having received from his *natural or spiritual* father the sacred
 ‘ gift of the *Véda*, let him sit on an elegant bed, decked with a garland
 ‘ of flowers; and let his father honour him, before his nuptials, with a
 ‘ present of a cow.

 4. ‘ Let the twice born man, having obtained the consent of his
 ‘ venerable guide, and having performed his ablution with stated cere-
 ‘ monies on his return home, as the law directs, espouse a wife of the
 ‘ same class with himself and endued with the marks of excellence.

 5. ‘ She, who is not descended from his *paternal or maternal* ances-
 ‘ tors within the sixth degree, and who is not *known by her family*
 ‘ name

‘ *name to be* of the same primitive stock with his father *or mother*, is
 ‘ eligible by a twice born man for nuptials and holy union :

6. ‘ In connecting himself with a wife, let him studiously avoid the
 ‘ ten following families, be they ever so great, or ever so rich in kine,
 ‘ goats, sheep, gold, and grain :

7. ‘ The family, which has omitted prescribed acts of religion ; that,
 ‘ which has produced no male children ; that, in which the *Vêda* has
 ‘ not been read ; that, which has thick hair on the body ; and those,
 ‘ which have been subject to hemorrhoids, to phthisis, to dyspepsia, to
 ‘ epilepsy, to leprosy, and to elephantiasis.

8. ‘ Let him not marry a girl with reddish hair, nor with any de-
 ‘ formed limb ; nor one troubled with habitual sickness ; nor one either
 ‘ with no hair or with too much ; nor one immoderately talkative ;
 ‘ nor one with inflamed eyes ;

9. ‘ Nor one with the name of a constellation, of a tree, or of a
 ‘ river, of a barbarous nation, or of a mountain, of a winged creature,
 ‘ a snake, or a slave ; nor with any name raising an image of terrour.

10. ‘ Let him chuse for his wife a girl, whose form has no defect ;
 ‘ who has an agreeable name ; who walks *gracefully* like a phenicop-
 ‘ teros or like a young elephant ; whose hair and teeth are moderate
 ‘ respectively in quantity and in size ; whose body has exquisite softness.

11. ‘ Her, who has no brother, or whose father is not well known,
 ‘ let no sensible man espouse, through fear left, *in the former case*, her
 ‘ father should take her first son as his own *to perform his obsequies* ; or,
 ‘ *in the second case*, lest an illicit marriage should be contracted.

12. ‘ For

12. ' For the first marriage of the twice born classes a woman of
' the same class is recommended; but for such, as are impelled by
' inclination to marry again, women in the direct order of the classes
' are to be preferred :

13. ' A *Súdra* woman only must be the wife of a *Súdra*; she and a
' *Vaisya*, of a *Vaisya*; they two and a *Cshatriya*, of a *Cshatriya*; those
' two and a *Bráhmaṇi*, of a *Bráhmaṇi*.

14. ' A woman of the servile class is not mentioned, even in the
' recital of any ancient story, as the first wife of a *Bráhmaṇi* or of a
' *Cshatriya*, though in the greatest difficulty to find a suitable match.

15. ' Men of the twice born classes, who, through weakness of
' intellect, irregularly marry women of the lowest class, very soon
' degrade their families and progeny to the state of *Súdras* :

16. ' According to ATRI and to (GÓTAMA) the son of UTAT'HYA,
' he, who *thus* marries a woman of the servile class, *if he be a*
' *priest*, is degraded instantly; according to SAUNACA, on the birth
' of a son, *if he be a warrior*; and, *if he be a merchant*, on the birth
' of a son's son, according to (me) BHRĪGU.

17. ' A *Bráhmaṇi*, if he take a *Súdra* to his bed, *as his first wife*,
' sinks to the regions of torment; if he beget a child by her, he loses
' even his priestly rank :

18. ' His sacrifices to the Gods, his oblations to the Manes, and
' his hospitable attentions to strangers, must be supplied principally by
' her; but the Gods and Manes will not eat such offerings; nor can
' heaven be attained by such hospitality.

19. ' For the crime of him, who *thus illegally* drinks the moisture of
 ' a *Súdra's* lips, who is tainted by her breath, and who even begets a
 ' child on her body, the law declares no expiation.

20. ' Now learn compendiously the eight forms of the nuptial cere-
 ' mony used by the four classes, some good and some bad in this
 ' world and in the next :

21. ' The ceremony of BRAHMA', of the *Dévas*, of the *Rishis*, of
 ' the *Prajápatis*, of the *Asuras*, of the *Gandharvas*, and of the *Rac-*
 ' *shasas* ; the eighth and basest is that of the *Pisáchas*.

22. ' Which of them is permitted by law to each class, and what
 ' are the good and bad properties of each ceremony, all this I will fully
 ' declare to you, together with the qualities, good and bad, of the
 ' offspring.

23. ' Let mankind know, that *the six first* in direct order are *by some*
 ' held valid in the case of a priest; the four last in that of a warrior;
 ' and the same four, except the *Racshasa* marriage, in the cases of a
 ' merchant and a man of the servile class :

24. ' Some consider the four first only as approved in the case of
 ' a priest; one, that of *Racshasas*, as peculiar to a foldier; and, that of
 ' *Asuras*, to a mercantile and a servile man :

25. ' But in this code, three of *the five last* are held legal, and two ille-
 ' gal : the ceremonies of *Pisáchas* and *Asuras* must never be performed.

26. ' For a military man the beforementioned marriages of *Gand-*
 ' *harvas* and *Racshasas*, whether separate, or mixed, *as when a girl is*
 ' made

‘ made captive by her lover, after a victory over her kinsmen, are permitted by law.

27. ‘ The gift of a daughter, clothed only with a single robe, to a man learned in the *Véda*, whom her father voluntarily invites and respectfully receives, is the nuptial rite called *Bráhma*.

28. ‘ The rite, which sages call *Daiva*, is the gift of a daughter, whom her father has decked in gay attire, when the sacrifice is already begun, to the officiating priest, who performs that act of religion.

29. ‘ When the father gives his daughter away, after having received from the bridegroom one pair of kine, or two pairs, for uses prescribed by law, that marriage is termed *A'rsha*.

30. ‘ The nuptial rite called *Prájápatya* is, when the father gives away his daughter with due honour, saying distinctly: “ May both of you perform together your civil and religious duties !”

31. ‘ When the bridegroom, having given as much wealth as he can afford to the father and paternal kinsmen, and to the damsel herself, takes her voluntarily as his bride, that marriage is named *A'sura*.

32. ‘ The reciprocal connection of a youth and a damsel, with mutual desire, is the marriage denominated *Gándharva*, contracted for the purpose of amorous embraces, and proceeding from sensual inclination.

33. ‘ The

33. ' The seizure of a maiden by force from her house, while she
' weeps and calls for assistance, after her kinsmen and friends have been
' slain in battle, or wounded, and their houses broken open, is the
' marriage styled *Ráçhafa*.

34. ' When the lover secretly embraces the damsel, either sleeping
' or flushed with strong liquor, or disordered in her intellect, that
' sinful marriage, called *Paisácha*, is the eighth and the basest.

35. ' The gift of daughters in marriage by the sacerdotal class is
' most approved, when they previously have poured water into the
' hands of the bridegroom; but the ceremonies of the other classes
' may be performed according to their several fancies.

36. ' Among these nuptial rites, what quality is ascribed by MENU
' to each, hear now, ye *Bráhmens*, hear it all from me, who fully
' declare it!

37. ' The son of a *Bráhmè*, or wife by the first ceremony, redeems
' from sin, if he perform virtuous acts, ten ancestors, ten descendants,
' and himself the twenty-first person.

38. ' A son, born of a wife by the *Daiva* nuptials, redeems seven and
' seven in higher and lower degrees; of a wife by the *A'rsha*, three and
' three; of a wife by the *Prájápatya*, six and six.

39. ' By four marriages, the *Bráhma* and so forth, in direct order,
' are born sons illumined by the *Véda*, learned men, beloved by the
' learned,

40. ' Adorned

40. ‘ Adorned with beauty, and with the quality of goodness, wealthy,
 ‘ famed, amply gratified with lawful enjoyments, performing all duties,
 ‘ and living a hundred years :

41. ‘ But in the other *four* base marriages, which remain, are pro-
 ‘ duced sons acting cruelly, speaking falsely, abhorring the *Véda*, and
 ‘ the duties prescribed in it.

42. ‘ From the blameless nuptial rites of men springs a blameless
 ‘ progeny ; from the reprehensible, a reprehensible offspring : let man-
 ‘ kind, therefore, studiously avoid the culpable forms of marriage.

43. ‘ The ceremony of joining hands is appointed for those, who
 ‘ marry women of their own class ; but, with women of a different
 ‘ class, the following nuptial ceremonies are to be observed :

44. ‘ By a *Cshatriyà*, on her marriage with a *Bráhmen*, an arrow
 ‘ must be held in her hand ; by a *Vaisya* woman, with a bridegroom
 ‘ of the sacerdotal or military class, a whip ; and by a *Súdrà* bride,
 ‘ marrying a priest, a soldier, or a merchant, must be held the skirt of a
 ‘ mantle.

45. ‘ LET the husband approach his wife in due season, *that is, at*
 ‘ *the time fit for pregnancy* ; let him be constantly satisfied with her
 ‘ alone ; but, except on the forbidden days of the moon, he may
 ‘ approach her, being affectionately disposed, *even out of due season*,
 ‘ with a desire of conjugal intercourse.

46. ‘ Sixteen days and nights in each month, with four distinct
 ‘ days neglected by the virtuous, are called the natural season of wo-
 ‘ men :

47. ‘ Of

47. ' Of those sixteen, the four first, the eleventh, and the thirteenth, are reprehended: the ten remaining nights are approved.

48. ' Some say, that on the even nights are conceived sons; on the odd nights, daughters: therefore let the man, who wishes for a son, approach his wife in due season on the even nights;

49. ' But a boy is in truth produced by the greater quantity of the male strength; and a girl, by a greater quantity of the female; by equality, an hermaphrodite, or a boy and a girl; by weakness or deficiency, is occasioned a failure of conception.

50. ' He, who avoids conjugal embraces on the six reprehended nights and on eight others, is equal in chastity to a *Brahmachari*, in whichever of the *two next* orders he may live.

51. ' LET no father, who knows the law, receive a gratuity, however small, for giving his daughter in marriage; since the man, who, through avarice, takes a gratuity *for that purpose*, is a feller of his offspring.

52. ' Whatever male relations, through delusion of mind, take possession of a woman's property, be it only her carriages or her clothes, such offenders will sink to a region of torment.

53. ' Some say, that the bull and cow *given* in the nuptial ceremony of the *Rishis*, are a bribe to the father; but this is untrue: a bribe *indeed*, whether large or small, is an actual sale of *the daughter*.

54. ' When money or goods are given to damsels, whose kinsmen receive them not for their own use, it is no sale: it is merely a token of courtesy and affection to the brides.

55. ' Married

55. ' Married women must be honoured and adorned by their fathers
' and brethren, by their husbands, and by the brethren of their hus-
' bands, if they seek abundant prosperity :

56. ' Where females are honoured, there the deities are pleased ; but
' where they are dishonoured, there all religious acts become fruitless.

57. ' Where female relations are made miserable, the family of him,
' who makes them so, very soon wholly perishes ; but, where they are
' not unhappy, the family always increases.

58. ' On whatever houses the women of a family, not being duly
' honoured, pronounce an imprecation, those houses, with all that
' belong to them, utterly perish, as if destroyed by a sacrifice for the
' death of an enemy.

59. ' Let those women, therefore, be continually supplied with
' ornaments, apparel, and food, at festivals and at jubilees, by men
' desirous of wealth.

60. ' In whatever family the husband is contented with his wife,
' and the wife with her husband, in that house will fortune be assuredly
' permanent.

61. ' Certainly, if the wife be not elegantly attired, she will not
' exhilarate her husband, and, if her lord want hilarity, offspring
' will not be produced.

62. ' A wife being gaily adorned, her whole house is embellished ; but,
' if she be destitute of ornament, all will be deprived of decoration.

63. ' By

63. ' By culpable marriages, by omission of prescribed ceremonies,
' by neglect of reading the *Vēda*, and by irreverence toward a *Brāhmen*,
' great families are sunk to a low state :

64. ' So they are by practising manual arts, by *lending at interest* and
' *other* pecuniary transactions, by begetting children on *Sūdras* only, by
' traffick in kine, horses, and carriages, by agriculture, and by attend-
' ance on a king.

65. ' By sacrificing for such, as have no right to sacrifice, and by
' denying a future compensation for good works, great families, being
' deprived of sacred knowledge, are quickly destroyed ;

66. ' But families, enriched by a knowledge of the *Vēda*, though
' possessing little temporal wealth, are numbered among the great, and
' acquire exalted fame.

67. ' LET the house-keeper perform domestic religious rites, with
' the nuptial fire, according to law, and the ceremonies of the five
' great sacraments, and the several acts, which must day by day be
' performed.

68. ' A house-keeper has five places of slaughter, *or where small*
' *living creatures may be slain*, his kitchen-hearth, his grind-stone, his
' broom, his pebble and mortar, his water-pot ; by using which, he
' becomes in bondage to sin :

69. ' For the sake of expiating *offences committed ignorantly* in
' those places *mentioned* in order, the five great sacraments were ap-
' pointed by eminent sages to be performed each day by such as keep
' house.

70. ' Teaching

70. ' Teaching and studying the scripture is the sacrament of the
 ' *Véda*; offering cakes and water, the sacrament of the Manes, an
 ' oblation to fire, the sacrament of the Deities; giving rice or other
 ' food to living creatures, the sacrament of spirits; receiving guests
 ' with honour, the sacrament of men:

71. ' Whoever omits not those five great ceremonies, if he have abi-
 ' lity to perform them, is untainted by the sins of the five slaughtering
 ' places, even though he constantly reside at home;

72. ' But whoever cherishes not five orders of beings, namely, the
 ' deities; those, who demand hospitality; those, whom he ought by
 ' law to maintain; his departed fore-fathers; and himself; that man
 ' lives not, even though he breathe.

73. ' Some call the five sacraments *ahuta* and *huta*, *prahuta*, *bráhmya-*
 ' *huta*, and *prásita*:

74. ' *Ahuta*, or unoffered, is divine study; *huta*, or offered, is the
 ' oblation to fire; *prahuta*, or well offered, is the food given to spirits;
 ' *bráhmya-huta* is respect shewn to twice-born guests; and *prásita*,
 ' or well eaten, is the offering of rice or water to the manes of an-
 ' cestors.

75. ' Let every man in this second order employ himself daily in
 ' reading the scripture, and in performing the sacrament of the Gods;
 ' for, being employed in the sacrament of deities, he supports this
 ' whole animal and vegetable world;

76. ' Since his oblation of clarified butter, duly cast into the flame,
 ' ascends in smoke to the sun; from the sun it falls in rain; from

‘ rain comes vegetable food ; and from such food animals derive their
‘ subsistence.

77. ‘ As all creatures subsist by receiving support from air, thus all
‘ orders of men exist by receiving support from house-keepers ;

78. ‘ And, since men of the three other orders are each day nourished
‘ by them with divine learning and with food, a house-keeper
‘ is for this reason of the most eminent order :

79. ‘ That order, therefore, must be constantly sustained with great
‘ care by the man, who seeks unperishable bliss in heaven, and in this
‘ world pleasurable sensations ; an order, which cannot be sustained by
‘ men with uncontrolled organs.

80. ‘ The divine sages, the manes, the gods, the spirits, and guests,
‘ pray for benefits to masters of families ; let these honours, therefore,
‘ be done to them by the house-keeper, who knows his duty :

81. ‘ Let him honour the sages by studying the *Vēda* ; the gods, by
‘ oblations to fire ordained by law ; the manes, by pious obsequies ;
‘ men, by supplying them with food ; and spirits, by gifts to all ani-
‘ mated creatures.

82. ‘ Each day let him perform a *śrāddha* with boiled rice and the
‘ like, or with water, or with milk, roots, and fruit ; for thus he ob-
‘ tains favour from departed progenitors.

83. ‘ He may entertain one *Brahmen* in that sacrament among the
‘ five, which is performed for the *Pitris* ; but, at the oblation to all the
‘ Gods, let him not invite even a single priest.

84. ‘ In

84. ‘ In his domestick fire for dressing the food of all the Gods, after
 ‘ the prescribed ceremony, let a *Bráhmén* make an oblation each day
 ‘ to these *following* divinities ;

85. ‘ First to AGNI, god of fire, and to the Lunar God, severally ;
 ‘ then, to both of them at once ; next, to the assembled Gods ; and af-
 ‘ terwards, to DHANWANTARI, God of Medicine ;

86. ‘ To CUHU’, goddesses of the day, when the new moon is discern-
 ‘ ible ; to ANUMATI, goddesses of the day after the opposition ; to PRA-
 ‘ JA’PATI, or the Lord of Creatures ; to DYA’VA’ and PRITHIVI’, god-
 ‘ desses of sky and earth ; and lastly, to the fire of the good sacrifice.

87. ‘ Having thus, with fixed attention, offered clarified butter in all
 ‘ quarters, proceeding *from the east* in a southern direction, to INDRA,
 ‘ YAMA, VARUNA, and the god SO’MA, let him offer his gift to
 ‘ animated creatures :

88. ‘ *Saying*, “ I salute the *Maruts*,” or *Winds*, let him throw dressed
 ‘ rice near the door ; *saying*, “ I salute the water gods,” in water ;
 ‘ and on his pestle and mortar, *saying*, “ I salute the gods of large
 ‘ trees.”

89. ‘ Let him do the like *in the north east*, or near his pillow, to
 ‘ SRI’, the goddesses of abundance ; *in the south west*, or at the foot of
 ‘ his bed, to the propitious goddess BHADRACA’LI’ ; in the centre of his
 ‘ mansion, to BRAHMA’ and his household God ;

90. ‘ To all the Gods assembled, let him throw up his oblation in
 ‘ open air ; by day, to the spirits, who walk in light ; and by night
 ‘ to those, who walk in darkness :

91. ‘ In

91. ' In the building on his housetop, *or behind his back*, let him cast
' his oblation for the welfare of all creatures; and what remains let
' him give to the *Pitrīs* with his face toward the south:

92. ' The share of dogs, of outcasts, of dogfeeders, of sinful men
' punished with elephantiasis or consumption, of crows, and of reptiles,
' let him drop on the ground by little and little.

93. ' A *Brāhmen*, who thus each day shall honour all beings,
' will go to the highest region in a straight path, with an irradiated
' form.

94. ' When he has performed this duty of making oblations, let him
' cause his guest to take food before himself; and let him give a por-
' tion of rice, as the law ordains, to the mendicant, who studies the
' *Vēda*.

95. ' Whatever fruit shall be obtained by that student, as the reward
' of his virtue, when he shall have given a cow to his preceptor, ac-
' cording to law, the like reward of virtue shall be obtained by the
' twice-born house-keeper, when he has given a mouthful of rice to
' the religious mendicant.

96. ' To a *Brāhmen*, who knows the true principle of the *Vēda*, let
' him present a portion of rice, or a pot of water garnished with fruit
' and flowers, due ceremonies having preceded:

97. ' Shares of oblations to the gods, or to the manes, utterly perish,
' when presented, through delusion of mind, by men regardless of duty,
' to such ignorant *Brāhmens*, as are mere ashes;

98. ' But

98. ' But an offering in the fire of a sacerdotal mouth, which richly
' blazes with true knowledge and piety, will release the giver from
' distress, and even from deadly sin.

99. ' To the guest, who comes of his own accord, let him offer a
' seat and water, with such food as he is able to prepare, after the due
' rites of courtesy.

100. ' A *Bráhmén*, coming as a guest, and not received with just
' honour, takes to himself all the reward of the house-keeper's former
' virtue, even though he had been so temperate as to live on the glean-
' ings of harvests, and so pious as to make oblations in five distinct
' fires.

101. ' Grass and earth to sit on, water to wash the feet, and, fourthly,
' affectionate speech are at no time deficient in the mansions of the
' good, *although they may be indigent*.

102. ' A *Bráhmén*, staying but one night as a guest, is called an
' *atit'hi*; since, continuing so short a time, he is *not* even a sojourner
' for a whole *tit'hi*, or *day of the moon*.

103. ' The house-keeper must not consider as an *atit'hi* a mere
' visitor of the same town, or a *Bráhmén*, who attends him on business,
' even though he come to the house, where his wife dwells, and where
' his fires are kindled.

104. ' Should any house-keepers be so senseless, as to seek, on pre-
' tence of being guests, the food of others, they would fall after death,
' by reason of that baseness, to the condition of cattle belonging to the
' giver of such food.

105. ' No

105. ' No guest must be dismissed in the evening by a house-keeper :
' he is sent by the retiring sun ; and, whether he come in fit season or
' unseasonably, he must not sojourn in the house without entertain-
' ment.

106. ' Let not himself eat any delicate food, without asking his
' guest to partake of it : the satisfaction of a guest will assuredly bring
' the house-keeper wealth, reputation, long life, and a place in heaven.

107. ' To the highest guests in the best form, to the lowest in
' the worst, to the equal, equally, let him offer seats, resting places,
' couches ; giving them proportionable attendance, when they depart ;
' and honour, as long as they stay.

108. ' Should another guest arrive, when the oblation to all the
' Gods is concluded, for him also let the house-keeper prepare food,
' according to his ability ; but let him not repeat his offerings to ani-
' mated beings.

109. ' Let no *Bráhmén* guest proclaim his family and ancestry for
' the sake of an entertainment ; since he, who thus proclaims them, is
' called by the wife a *vántáfi*, or foulfeeding demon.

110. ' A military man is not denominated a guest in the house of a
' *Bráhmén* ; nor a man of the commercial or servile class ; nor his
' familiar friend ; nor his paternal kinsman ; nor his preceptor :

111. ' But, if a warrior come to his house in the form of a guest,
' let food be prepared for him, according to his desire, after the before
' mentioned *Bráhméns* have eaten,

112. ' Even

112. ' Even to a merchant or a labourer, approaching his house in
' the manner of guests, let him give food, showing marks of benevo-
' lence, at the same time with his domesticks :

113. ' To others, as familiar friends, and the rest before named,
' who come with affection to his place of abode, let him serve a
' repast at the same time with his wife *and himself*, having amply pro-
' vided it according to his best means.

114. ' To a bride, and to a damsel, to the sick, and to pregnant
' women, let him give food, even before his guests, without hesitation.

115. ' The idiot, who first eats his own mess, without having pre-
' sented food to the persons just enumerated, knows not, while he crams,
' that he will himself be food after death for bandogs and vultures.

116. ' After the repast of the *Bráhmén* guest, of his kinsmen, and
' his domesticks, the married couple may eat what remains untouched.

117. ' The house-keeper, having honoured spirits, holy sages, men,
' progenitors, and household gods, may feed on what remains after
' those oblations.

118. ' He, who eats what has been dressed for himself only, eats
' nothing but sin: a repast on what remains, after the sacraments, is
' called the banquet of the good.

119. ' After a year from the reception of a visitor, let the house-
' keeper again honour a king, a sacrificer, a student returned from his
' preceptor, a son in law, a father in law, and a maternal uncle,
' with a *madbuperca*, or present of honey, curds, and fruit.

120. ' A

120. ' A king or a *Bráhmén*, arriving at the celebration of the sacrament, are to be honoured with a *madbuperca*; but not, if the sacrament be over: this is a fettled rule.

121. ' In the evening, let the wife make an offering of the dressed food, but without pronouncing any text of the *Véda*: one oblation to the assembled gods, thence named *Vaiswadéva*, is ordained both for evening and morning.

122. ' FROM month to month, on the dark day of the moon, let a twice-born man having finished the daily sacrament of the *Pitrīs*, and his fire being still blazing, perform the solemn *śrāddha*, called *pindānwábārya*:

123. ' Sages have distinguished the monthly *śrāddha* by the title of *anwábārya*, or *after eaten*, that is, eaten after the *pinda*, or ball of rice; and it must be performed with extreme care, and with flesh meat in the best condition.

124. ' What *Bráhmens* must be entertained at that ceremony, and who must be accepted, how many are to be fed, and with what sort of food, on all those articles without omission, I will fully discourse.

125. ' At the *śrāddha* of the gods he may entertain two *Bráhmens*; at that of his father, paternal grandfather, and paternal great grandfather, three; or one only at that of the gods, and one at that for his three paternal ancestors: though he abound in wealth, let him not be solicitous to entertain a large company.

126. ' A large company destroys these five advantages; reverence to priests, propriety of time and place, purity, and the acquisition of
' virtuous

‘ virtuous *Bráhmens*: let him not, therefore, endeavour to feed a
‘ superfluous number.

127. ‘ This act of due honour to departed souls, on the dark day of
‘ the moon, is famed by the appellation of *pitrya*, or ancestral: the
‘ legal ceremony, in honour of departed spirits, rewards with continual
‘ fruit a man engaged in such obsequies.

128. ‘ Oblations to the gods and to ancestors should be given to a
‘ most reverend *Bráhmen*, perfectly conversant with the *Véda*; since
‘ what is given to him produces the greatest reward.

129. ‘ By entertaining one learned man at the oblation to the gods
‘ and at that to ancestors, he gains more exalted fruit, than by feeding
‘ a multitude, who know not the holy texts.

130. ‘ Let him inquire into the ancestry, even in a remote degree,
‘ of a *Bráhmen*, who has advanced to the end of the *Véda*: such a
‘ man, if sprung from good men, is a fit partaker of oblations to gods
‘ and to ancestors; such a man may justly be called an *atit’hi*, or guest.

131. ‘ Surely, though a million of men, unlearned in holy texts,
‘ were to receive food, yet a single man, learned in scripture, and
‘ fully satisfied with his entertainment, would be of more value than
‘ all of them together.

132. ‘ Food, consecrated to the gods and the manes, must be pre-
‘ sented to a theologian of eminent learning; for certainly, when hands
‘ are smeared with blood, they cannot be cleaned with blood only, *nor*
‘ *can sin be removed by the company of sinners.*

133. ' As many mouthfuls as an unlearned man shall swallow at an oblation to the gods and to ancestors, so many red-hot iron balls must the giver of the *śrāddha* swallow in the next world.

134. ' Some *Brāhmins* are intent on scriptural knowledge; others, on austere devotion; some are intent both on religious austerity and on the study of the *Vēda*; others, on the performance of sacred rites:

135. ' Oblations to the manes of ancestors ought to be placed with care before such as are intent on sacred learning: but offerings to the gods may be presented, with due ceremonies, to *Brāhmins* of all the four descriptions.

136. ' There may be a *Brāhman*, whose father had not studied the scripture, though the son has advanced to the end of the *Vēda*; or there may be one, whose son has not read the *Vēda*, though the father had travelled to the end of it:

137. ' Of those two let mankind consider him as the superiour, whose father had studied the scripture; yet, for the sake of performing rites with holy texts, the other is worthy of honour.

138. ' Let no man, at the prescribed obsequies, give food to an intimate friend; since advantage to a friend must be procured by gifts of different property: to that *Brāhman* let the performer of a *śrāddha* give food, whom he considers neither as a friend nor as a foe.

139. ' For him, whose obsequies and offerings of clarified butter are provided chiefly through friendship, no fruit is reserved in the next life, on account either of his obsequies or of his offerings.

140. ' The

140. ' The man, who, through delusion of intellect, forms temporal
' connexions by obsequies, is excluded from heavenly mansions, as a
' giver of the *śrāddha* for the sake of friendship, and the meanest of
' twice-born men :

141. ' Such a convivial present, by men of the three highest classes,
' is called the gift of *Pisāchas*, and remains fixed here below, like
' a blind cow in one stall.

142. ' As a husbandman, having sown seed in a barren soil, reaps
' no grain, thus a performer of holy rites, having given clarified
' butter to an unlearned *Brāhmen*, attains no reward in heaven ;

143. ' But a present made, as the law ordains, to a learned theolo-
' gian, renders both the giver and the receiver partakers of good fruits
' in this world and in the next.

144. ' If no learned *Brāhmen* be at hand, he may at his pleasure
' invite a friend to the *śrāddha*, but not a foe, be he ever so learned ;
' since the oblation, being eaten by a foe, loses all fruit in the life
' to come.

145. ' With great care let him give food at the *śrāddha* to a priest,
' who has gone through the scripture, but has chiefly studied the
' *R̥gveda* ; to one, who has read all the branches, but principally those
' of the *Yajus* ; or to one, who has finished the whole, with particular
' attention to the *Sāman* :

146. ' Of that man, whose oblation has been eaten, after due ho-
' nours, by any one of those three *Brāhmens*, the ancestors are con-
' stantly satisfied as high as the seventh person, or to the sixth degree.

147. ' This

147. ' This is the chief rule in offering the *śrāddha* to the gods and
 ' to ancestors; but the following may be considered as a subsidiary
 ' rule, *where no such learned priests can be found*, and is ever observed
 ' by good men :

148. ' Let him entertain his maternal grandfather, his maternal
 ' uncle, the son of his sister, the father of his wife, his spiritual guide,
 ' the son of his daughter, or her husband, his maternal cousin, his
 ' officiating priest, or the performer of his sacrifice.

149. ' For an oblation to the gods, let not the man, who knows what
 ' is law, scrupulously inquire into the parentage of a *Brāhmen*; but
 ' for a prepared oblation to ancestors, let him examine it with strict care.

150. ' Those *Brāhmens*, who have committed any inferiour theft or
 ' any of the higher crimes, who are deprived of virility, or who profess
 ' a disbelief in a future state, MENU has pronounced unworthy of
 ' honour at a *śrāddha* to the gods or to ancestors.

151. ' To a student in theology, who has not read the *Vēda*, to a
 ' man *punished for past crimes by being* born without a prepuce, to a
 ' gamester, and to such, as perform many sacrifices for other men, let
 ' him never give food at the sacred obsequies.

152. ' Physicians, imageworshippers for gain, sellers of meat, and
 ' such as live by low traffick, must be shunned in oblations both to the
 ' deities and to progenitors.

153. ' A public servant of the whole town, or of the prince, a man
 ' with whitlows on his nails, or with black yellow teeth, an opposer of
 ' his preceptor, a deserter of the sacred fire, and an usurer,

154. ' A

154. ' A phthifical man, a feeder of cattle, one omitting the five
' great sacraments, a contemner of *Bráhmens*, a younger brother mar-
' ried before the elder, an elder brother not married before the younger,
' and a man, who subsists by the wealth of many relations,

155. ' A dancer, one who has violated the rule of chastity in the
' first or fourth order, the husband of a *Súdra*, the son of a twice-
' married woman, a man who has lost one eye, and a husband in
' whose house an adulterer dwells,

156. ' One who teaches the *Véda* for wages, and one who gives
' wages to such a teacher, the pupil of a *Súdra*, and the *Súdra* pre-
' ceptor, a rude speaker, and the son of an adulteress, born either
' before or after the death of the husband,

157. ' A forsaker, without just cause, of his mother, father, or pre-
' ceptor, and a man who forms a connexion, either by scriptural or
' connubial affinity, with great sinners,

158. ' A houseburner, a giver of poison, an eater of food offered
' by the son of an adulteress, a feller of the moonplant, *a species of*
' *mountain rue*, a navigator of the ocean, a poetical encomiast, an oil-
' man, and a suborner of perjury,

159. ' A wrangler with his father, an employer of gamesters for his
' own benefit, a drinker of intoxicating spirits, a man punished for
' sin with elephantiasis, one of evil repute, a cheat, and a feller of
' liquids,

160. ' A maker of bows and arrows, the husband of a younger sister
' married before the elder *of the whole blood*, an injurer of his friend,
the

‘ the keeper of a gaminghouse, and a father instructed in the *Véda* by
 ‘ his own son,

161. ‘ An epileptick person, one who has the erysipelas or the
 ‘ leprosy, a common informer, a lunatick, a blind man, and a despiser
 ‘ of scripture, must all be shunned.

162. ‘ A tamer of elephants, bulls, horses, or camels, a man who
 ‘ subsists by astrology, a keeper of birds, and one who teaches the use
 ‘ of arms,

163. ‘ He, who diverts watercourses, and he, who is gratified by
 ‘ obstructing them, he, who builds houses for gain, a messenger, and a
 ‘ planter of trees *for pay*,

164. ‘ A breeder of sporting dogs, a falconer, a seducer of damsels, a
 ‘ man delighting in mischief, a *Brábmén* living as a *Súdra*, a sacrificer
 ‘ to the inferiour gods only,

165. ‘ He, who observes not approved customs, and he, who regards
 ‘ not prescribed duties, a constant importunate asker of favours, he,
 ‘ who supports himself by tillage, a clubfooted man, and one despised
 ‘ by the virtuous,

166. ‘ A shepherd, a keeper of buffalos, the husband of a twice-
 ‘ married woman, and the remover of dead bodies *for pay*, are to be
 ‘ avoided with great care.

167. ‘ Those lowest of *Brábméns*, whose manners are contemptible,
 ‘ who are not admisable into company at a repast, an exalted and
 ‘ learned priest must avoid at both *fráddhas*.

168. ‘ A

168. ' A *Bráhmén*, unlearned in holy writ, is extinguished in an
 ' instant, like a fire of dry grafs: to him the oblation must not be
 ' given; for the clarified butter must not be poured on ashes.

169. ' WHAT retribution is prepared in the next life for the giver
 ' of food to men inadmissible into company, at the *fráddha* to the gods
 ' and to ancestors, I will now declare without omission.

170. ' On that food, which has been given to *Bráhmén*s, who have
 ' violated the rules of their order, to the younger brother married before
 ' the elder, and to the rest, who are not admissible into company, the
 ' *Racshases* eagerly feast.

171. ' He, who makes a marriage contract with the connubial fire,
 ' while his elder brother continues unmarried, is called a *perivéttri*; and
 ' the elder brother, a *perivitti*:

172. ' The *perivéttri*, the *perivitti*, the damsel thus wedded, the
 ' giver of her in wedlock, and, fifthly, the performer of the nuptial
 ' sacrifice, all sink to a region of torment.

173. ' He, who lasciviously dallies with the widow of his deceased
 ' brother, though she be legally married to him, is denominated the
 ' husband of a *didhishú*.

174. ' Two sons, named a *cunda* and a *gólaca*, are born in adultery;
 ' the *cunda*, while the husband is alive, and the *gólaca*, when the hus-
 ' band is dead:

175. ' Those animals begotten by adulterers, destroy, both in this
 ' world and in the next, the food presented to them by such, as make
 ' oblations to the gods or to the manes.

176. ' The

176. ' The foolish giver of a *śrāddha* loses, in a future life, the fruit
 ' of as many admissible guests, as a *thief or the like* person, inadmissible
 ' into company, might be able to see.

177. ' A blind man, placed where one with eyes might have seen,
 ' destroys the reward of ninety; he, who has lost one eye, of sixty;
 ' a leper, of a hundred; one punished with elephantiasis, of a thou-
 ' sand.

178. ' Of the gift at a *śrāddha* to as many *Brāhmins*, as a sacrificer
 ' for a *Sūdra* might be able to touch on the body, the fruit is lost to the
 ' giver, *if he invite such a wretch*;

179. ' And if a *Brāhmen*, who knows the *Vēda*, receive through covet-
 ' ousness a present from such a sacrificer, he speedily sinks to perdition,
 ' like a figure of unburnt clay in water.

180. ' Food, given to a feller of the moonplant, becomes ordure in
 ' another world; to a physician, purulent blood; *and the giver will be*
 ' *a reptile bred in them*: if offered to an imageworshipper, it is thrown
 ' away; if to an usurer, infamous.

181. ' That, which is given to a trader, endures neither in this life
 ' nor in the next, and that bestowed on a *Brāhmen*, who has married
 ' a widow, resembles clarified butter poured on ashes as an oblation to
 ' fire.

182. ' That food, which is given to other base inadmissible men
 ' before mentioned, the wise have pronounced to be no more than ani-
 ' mal oil, blood, flesh, skin, and bones.

183. ' Now

183. ‘ Now learn comprehensively, by what *Bráhmens* a company
 ‘ may be purified, when it has been defiled by inadmissible persons;
 ‘ *Bráhmens*, the chief of their class, the purifiers of every assembly.

184. ‘ Those priests must be considered as the purifiers of a company,
 ‘ who are most learned in all the *Védas* and all their *Angas*, together
 ‘ with their descendants, who have read the whole scripture :

185. ‘ A priest learned in a principal part of the *Yajurveda* ; one,
 ‘ who keeps the five fires constantly burning ; one skilled in a principal
 ‘ part of the *Rigvéda* ; one, who explains the six *Védāngas* ; the son of a
 ‘ *Bráhmī*, or woman married by the *Bráhma* ceremony ; and one, who
 ‘ chants the principal *Sáman* ;

186. ‘ One, who propounds the sense of the *Védas*, which he learnt
 ‘ from his preceptor, a student, who has given a thousand *cows* for
 ‘ *pious uses*, and a *Bráhmen* a hundred years old, must all be considered
 ‘ as the purifiers of a party at a *śráddha*.

187. ‘ On the day before the sacred obsequies, or on the very day
 ‘ when they are prepared, let the performer of them invite, with due
 ‘ honour, such *Bráhmens* as have been mentioned ; *usually* one superiour,
 ‘ who has three inferiour to him.

188. ‘ The *Bráhmen*, who has been invited to a *śráddha* for departed
 ‘ ancestors, must be continually abstemious ; he must not even read
 ‘ the *Védas* ; and he, who performs the ceremony, must act in the same
 ‘ manner.

189. ‘ Departed ancestors, no doubt, are attendant on such invited
 ‘ *Bráhmens* ; hovering around them like pure spirits, and sitting by
 ‘ them, when they are seated.

190. ' The priest, who having been duly invited to a *śráddha*, breaks
' the appointment, commits a grievous offence, and, in his next birth,
' becomes a hog.

191. ' He, who caresses a *Súdra* woman, after he has been invited
' to sacred obsequies, takes on himself all the sin, that has been com-
' mitted by the giver of the repast.

192. ' The *Pitrīs*, or *great progenitors*, are free from wrath, intent
' on purity, ever exempt from sensual passions, endued with exalted
' qualities: they are primeval divinities, who have laid arms aside.

193. ' HEAR now completely, from whom they sprang; who
' they are; by whom, and by what ceremonies, they are to be ho-
' noured.

194. ' The sons of MARÍ'CHI and of all the other *Rīshis*, who were
' the offspring of MENU, son of BRAHMA', are called the companies
' of *Pitrīs*, or *forefathers*.

195. ' The *Sómasads*, who sprang from VIRA'J, are declared to be
' the ancestors of the *Sádhyas*; and the *Agnishwáttas*, who are famed
' among created beings as the children of MARÍ'CHI, to be the proge-
' nitors of the *Dévas*.

196. ' Of the *Daityas*, the *Dánavas*, the *Yacshas*, the *Gandharvas*,
' the *Uragas*, or *Serpents*, the *Racshases*, the *Garudas*, and the *Cinna-*
' *ras*, the ancestors are *Barbishads* descended from ATRI;

197. ' Of *Bráhmens*, those named *Sómapas*; of *Cshatriyas*, the
' *Havishmats*; of *Vaishyas*, those called *A'jyapas*; of *Súdras*, the
' *Sucálins*:

198. ' The

198. ' The *Sómapas* descended from *Me*, *BHRĪGU*; the *Haviṣmats*,
 ' from *ANGIRAS*; the *A'jyapas*, from *PULASTYA*; the *Sucálins*, from
 ' *VASISHT'HA*.

199. ' Those who are, and those who are not, consumable by fire,
 ' called *Agnidagdhas*, and *Anagnidagdhas*, the *Cávyas*, the *Barhiṣhads*,
 ' the *Agniṣhwáttas*, and the *Saumyas*, let mankind consider as the chief
 ' progenitors of *Bráhmens*.

200. ' Of those just enumerated, who are generally reputed the prin-
 ' cipal tribes of *Pitrīs*, the sons and grandsons indefinitely, are also in
 ' this world considered as great progenitors.

201. ' From the *Rīṣhis* come the *Pitrīs*, or patriarchs; from the
 ' *Pitrīs*, both *Dévas* and *Dánavas*; from the *Dévas*, this whole world
 ' of animals and vegetables, in due order.

202. ' Mere water, offered with faith to the progenitors of men, in
 ' vessels of silver, or adorned with silver, proves the source of incorruption.

203. ' An oblation by *Bráhmens* to their ancestors transcends an ob-
 ' lation to the deities; because that to the deities is considered as the
 ' opening and completion of that to ancestors.

204. ' As a preservative of the oblation to the patriarchs, let the
 ' house-keeper begin with an offering to the gods; for the *Racṣasēs*
 ' rend in pieces an oblation which has no such preservative.

205. ' Let an offering to the gods be made at the beginning and end
 ' of the *śráddha*: it must not begin and end with an offering to ances-
 ' tors; for he, who begins and ends it with an oblation to the *Pitrīs*,
 ' quickly perishes with his progeny.

206. ' LET

206. ' LET the *Bráhmén* smear with cowdung a purified and sequestered piece of ground; and let him with great care select a place with a declivity toward the south:

207. ' The divine manes are always pleased with an oblation in empty glades, naturally clean, on the banks of rivers, and in solitary spots.

208. ' Having duly made an ablution with water, let him place the invited *Bráhméns*, who have also performed their ablutions, one by one, on allotted seats purified with *cus'a*-grasses.

209. ' When he has placed them with reverence on their seats, let him honour them (having first honoured the gods) with fragrant garlands and sweet odours.

210. ' Having brought water for them with *cus'a*-grasses and *tila*, let the *Bráhmén*, with the *Bráhméns*, pour the oblation, as the law directs, on the holy fire.

211. ' First, as it is ordained, having satisfied AGNI, SO'MA, YAMA, with clarified butter, let him proceed to satisfy the manes of his progenitors.

212. ' If he have no consecrated fire, *as if he be yet unmarried, or his wife be just deceased*, let him drop the oblation into the hand of a *Bráhmén*; since, what fire is, even such is a *Bráhmén*; as priests, who know the *Véda* declare:

213. ' Holy sages call the chief of the twice-born the gods of obsequies, free from wrath, with placid aspects, of a primeval race, employed in the advancement of human creatures.

214. ' Having

214. ' Having walked in order from east to south, and thrown into
' the fire all the ingredients of his oblation, let him sprinkle water on
' the ground with his right hand.

215. ' From the remainder of the clarified butter having formed
' three balls of rice, let him offer them, with fixed attention, in the
' same manner as the water, his face being turned to the south :

216. ' Then, having offered those balls, after due ceremonies and
' with an attentive mind, *to the manes of his father, his paternal grand-*
' *father, and great grandfather*, let him wipe the same hand with the
' roots of *cus'a*, which he had before used, for the sake of *his paternal*
' *ancestors in the fourth, fifth, and sixth degrees, who are the partakers*
' of the rice and clarified butter *thus* wiped off.

217. ' Having made an ablution, returning toward the north, and
' thrice suppressing his breath slowly, let him salute the gods of the
' six seasons, and the *Pitrīs* also, being well acquainted with proper
' texts of the *Vēda*.

218. ' Whatever water remains in his ewer, let him carry back
' deliberately near the cakes of rice ; and, with fixed attention, let him
' smell those cakes, in order as they were offered :

219. ' Then, taking a small portion of the cakes in order, let him
' first, as the law directs, cause the *Brāhmens* to eat of them, while
' they are seated.

220. ' If his father be alive, let him offer the *śrāddha* to his
' ancestors in *three* higher degrees ; or let him cause his own father to
' eat, as a *Brāhmen*, at the obsequies :

221. ' Should

221. ‘ Should his father be dead, and his grandfather living, let
 ‘ him, in celebrating the name of his father, *that is, in performing*
 ‘ *obsequies to him*, celebrate also his paternal great grandfather ;

222. ‘ Either the paternal grandfather may partake of the *śráddha*
 ‘ (so has MENU declared) or the grandson, authorized by him, may
 ‘ perform the ceremony at his discretion.

223. ‘ Having poured water, with *cus’a-grafs* and *tila*, into the
 ‘ hands of the *Bráhmens*, let him give them the upper part of the
 ‘ cakes, saying, “ *Swadhá* to the manes !”

224. ‘ Next, having himself brought with both hands a vessel full
 ‘ of rice, let him, still meditating on the *Pitrīs*, place it before the
 ‘ *Bráhmens* without precipitation.

225. ‘ Rice taken up, but not supported with both hands, the male-
 ‘ volent *Aśuras* quickly rend in pieces.

226. ‘ Broths, potherbs, and other eatables accompanying the rice,
 ‘ together with milk and curds, clarified butter and honey, let him
 ‘ first place on the ground, after he has made an ablution ; and let his
 ‘ mind be intent on no other object :

227. ‘ Let him add spiced puddings, and milky messes of various
 ‘ sorts, roots of herbs and ripe fruits, savoury meats, and sweet smelling
 ‘ drinks.

228. ‘ Then being duly purified, and with perfect presence of mind,
 ‘ let him take up all the dishes one by one, and present them in order
 ‘ to the *Bráhmens*, proclaiming their qualities.

229. ‘ Let

229. ' Let him at no time drop a tear ; let him on no account be
' angry ; let him say nothing false ; let him not touch the eatables
' with his foot ; let him not even shake the dishes :

230. ' A tear sends the messes to restless ghosts ; anger, to foes ;
' falsehood, to dogs ; contact with his foot, to demons ; agitation,
' to finners.

231. ' Whatever is agreeable to the *Bráhmens*, let him give without
' envy ; and let him discourse on the attributes of God : such dis-
' course is expected by the manes.

232. ' At the obsequies to ancestors, he must let the *Bráhmens* hear
' passages from the *Véda*, from the codes of law, from moral tales,
' from heroick poems, from the *Puránas*, and from theological
' texts.

233. ' Himself being delighted, let him give delight to the *Bráhmens*,
' and invite them to eat of the provisions by little and little ; attracting
' them often with the dressed rice and other eatables, and mentioning
' their good properties.

234. ' To the son of his daughter, though a student in theology, let
' him carefully give food at the *śráddha* ; offering him a blanket from
' *Népál* as his feat, and sprinkling the ground with *tila* :

235. ' Three things are held pure at such obsequies, the daughter's
' son, the *Népál* blanket, and the *tila* ; and three things are praised in
' it by the wife, cleanliness, freedom from wrath, and want of pre-
' cipitate haste.

236. ' Let

236. ' Let all the dressed food be very hot ; and let the *Bráhmens*
' eat it in silence ; nor let them declare the qualities of the food, even
' though asked by the giver.

237. ' As long as the messes continue warm, as long as they eat in
' silence, as long as the qualities of the food are not declared by them,
' so long the manes feast on it.

238. ' What a *Bráhmen* eats with his head covered, what he eats
' with his face to the south, what he eats with sandals on his feet, the
' demons assuredly devour.

239. ' Let not a *Chandála*, a townboar, a cock, a dog, a woman
' in her courses, or an eunuch, see the *Bráhmens* eating :

240. ' That, which any one of them sees at the oblation to fire,
' at a solemn donation of cows and gold, at a repast given to *Bráhmens*,
' at holy rites to the gods, and at the obsequies to ancestors, produces
' not the intended fruit :

241. ' The boar destroys it by his smell ; the cock, by the air of his
' wings ; the dog, by the cast of a look ; the man of the lowest class,
' by the touch.

242. ' If a lame man, or a man with one eye, or a man with a
' limb defective or redundant, be even a servant of the giver, him
' also let his master remove from the place.

243. ' Should another *Bráhmen*, or a mendicant, come to his house
' for food, let him, having obtained permission from the invited
' *Bráhmens*, entertain the stranger to the best of his power.

244. ' Having

244. ' Having brought together all the sorts of food, as dressed rice
' and the like, and sprinkling them with water, let him place them
' before the *Bráhmens*, who have eaten; dropping some *on the blades of*
' *cus'a-grafs, which have been spread* on the ground.

245. ' What remains in the dishes, and what has been dropped on
' the blades of *cus'a*, must be considered as the portion of deceased
' *Bráhmens*, not girt with the sacrificial thread, and of such as have
' deserted unreasonably the women of their own tribe.

246. ' The residue, that has fallen on the ground at the *śráddha* to
' the manes, the wife have decided to be the share of all the servants,
' who are not crooked in their ways, nor lazy and ill disposed.

247. ' Before the obsequies to ancestors as far as the sixth degree,
' they must be performed to a *Bráhmen* recently deceased; but the
' performer of them must *in that case* give the *śráddha* without the
' ceremony to the Gods, and offer only one round cake; *and these*
' *obsequies for a single ancestor should be annually performed on the day*
' *of his death* :

248. ' When, *afterwards*, the obsequies to ancestors as far as the
' sixth degree, inclusively of him, are performed according to law, then
' must the offering of cakes be made by the descendants in the manner
' before ordained *for the monthly ceremonies*.

249. ' THAT fool, who, having eaten of the *śráddha*, gives the
' residue of it to a man of the servile class, falls headlong down to the
' hell, named *Cálasútra*.

250. ‘ Should the eater of a *śrāddha* enter, on the same day, the bed
 ‘ of a seducing woman, his ancestors would sleep for that month on her
 ‘ excrement.

251. ‘ HAVING, by the word *śwaditam*, asked the *Brāhmens* if they
 ‘ have eaten well, let him give them, being satisfied, water for an
 ‘ ablution, and courteously say to them: “ Rest either at home or
 ‘ here.”

252. ‘ Then let the *Brāhmens* address him, saying *śwadhá*; for, in
 ‘ all ceremonies relating to deceased ancestors, the word *śwadhá* is the
 ‘ highest benison.

253. ‘ After that, let him inform those, who have eaten, of the food
 ‘ which remains; and, being instructed by the *Brāhmens*, let him dispose
 ‘ of it, as they may direct.

254. ‘ At the close of the *śrāddha* to his ancestors, he must ask, if the
 ‘ *Brāhmens* are satisfied, by the word *śwadita*; after that for his family,
 ‘ by the word *śuśruta*; after that for his own advancement, by the
 ‘ word *śampanna*; after that, which has been offered to the gods, by the
 ‘ word *ruchita*.

255. ‘ The afternoon, the *cus’a*-grass, the cleansing of the ground,
 ‘ the *tilas*, the liberal gifts of food, the due preparation for the repast,
 ‘ and the company of most exalted *Brāhmens*, are true riches in the
 ‘ obsequies to ancestors.

256. ‘ The blades of *cus’a*, the holy texts, the forenoon, all the
 ‘ oblations, *which will presently be enumerated*, and the purification
 ‘ before

‘ before mentioned, are to be considered as wealth in the *śrāddha* to the
 ‘ gods:

257. ‘ Such wild grains as are eaten by hermits, milk, the juice of
 ‘ the moonplant, meat untainted, and salt unprepared by art, are
 ‘ held things fit, in their own nature, for the last mentioned offering.

258. ‘ Having dismissed the invited *Brāhmins*, keeping his mind
 ‘ attentive, and his speech suppressed, let him, after an ablution, look
 ‘ toward the south, and ask these blessings of the *Pitris*:

259. “ May generous givers abound in our house ! may the scriptures
 “ be studied, and progeny increase, in it ! may faith never depart from
 “ us ! and may we have much to bestow on the needy ! ”

260. ‘ Thus having ended the *śrāddha*, let him cause a cow, a
 ‘ priest, a kid, or the fire, to devour what remains of the cakes ; or
 ‘ let him cast them into the waters.

261. ‘ Some make the offering of the round cakes after the repast of
 ‘ the *Brāhmins* ; some cause the birds to eat what remains, or cast it
 ‘ into water or fire.

262. ‘ Let a lawful wife, ever dutiful to her lord, and constantly
 ‘ honouring his ancestors, eat the middlemost of the three cakes, *or*
 ‘ that offered to his paternal grandfather, with due ceremonies, praying
 ‘ for offspring :

263. ‘ So may she bring forth a son, who will be longlived, famed,
 ‘ and strongminded, wealthy, having numerous descendants, endued with
 ‘ the best of qualities, and performing all duties religious and civil.

264. ‘ THEN,

264. ' THEN, having washed both his hands and sipped water, let
' him prepare some rice for his paternal kinsmen; and, having given it
' them with due reverence, let him prepare food also for his maternal
' relations.

265. ' Let the residue continue in its place, until the *Bráhmens* have
' been dismissed; and then let him perform the *remaining* domestick
' sacraments.

266. ' WHAT sort of oblations, given duly to the manes, are capable
' of satisfying them for a long time or for eternity, I will now declare
' without omission.

267. ' The ancestors of men are satisfied a whole month with *tila*,
' rice, barley, black lentils or vetches, water, roots, and fruit, given
' with prescribed ceremonies;

268. ' Two months, with fish; three months, with venison; four,
' with mutton; five, with the flesh of *such* birds, *as* the twice-born
' may eat;

269. ' Six months, with the flesh of kids; seven, with that of
' spotted deer; eight, with that of the deer, or antelope, called *éna*;
' nine, with that of the *ruru* :

270. ' Ten months are they satisfied with the flesh of wild boars and
' wild buffalos; eleven, with that of rabbits or hares, and of tortoises;

271. ' A whole year with the milk of cows, and food made of that
' milk; from the flesh of the long-eared white goat, their satisfaction
' endures twelve years.

272. ' The

272. ‘ The potherb *cálasáca*, the fish *mahásalca*, or the *diodon*, the
 ‘ flesh of a rhinoceros, or of an ironcoloured kid, honey, and all such
 ‘ forestgrains as are eaten by hermits, are formed for their satisfaction
 ‘ without end.

273. ‘ Whatever pure food, mixed with honey, a man offers on the
 ‘ thirteenth day of the moon, in the season of rain, and under the lunar
 ‘ asterism *Maghà*, has likewise a ceaseless duration.

274. “ Oh ! may that man, *say the manes*, be born in our line, who
 “ may give us milky food, with honey and pure butter, both on the
 “ thirteenth of the moon, and when the shadow of an elephant falls
 “ to the east !”

275. ‘ Whatever a man, endued with strong faith, piously offers,
 ‘ as the law has directed, becomes a perpetual unperishable gratifica-
 ‘ tion to his ancestors in the other world :

276. ‘ The tenth and so forth, except the fourteenth, in the dark
 ‘ half of the month, are the lunar days most approved for sacred
 ‘ obsequies : as they *are*, so *are* not the others.

277. ‘ He, who does honour to the manes, on even lunar days, and
 ‘ under even lunar stations, enjoys all his desires ; on odd lunar days,
 ‘ and under odd lunar asterisms, he procures an illustrious race.

278. ‘ As the latter, *or dark*, half of the month surpasses, for the
 ‘ celebration of obsequies, the former, *or bright* half, so the latter half
 ‘ of the day surpasses, *for the same purpose*, the former half of it.

279. ‘ The

279. ‘ The oblation to ancestors must be duly made, even to *the conclusion of it with the distribution to the servants* (or even to the close of life), in the form prescribed, by a *Bráhmen* wearing his thread on his right shoulder, proceeding from left to right, without remissness, and with *cus'a-grafs* in his hand.

280. ‘ Obsequies must not be performed by night; since the night is called *râcshasî* or *infested by demons*; nor while the sun is rising or setting, nor when it has just risen.

281. ‘ A house-keeper, *unable to give a monthly repast*, may perform obsequies here below, according to the sacred ordinance, only thrice a year, in the seasons of *bémanta*, *grishma*, and *vershà*; but the five sacraments he must perform daily.

282. ‘ The sacrificial oblation, at obsequies to ancestors, is ordained to be made in no vulgar fire; nor should the monthly *fráddha* of that *Bráhmen*, who keeps a perpetual fire, be made on any day except on that of the conjunction.

283. ‘ When a twice-born man, having performed his ablution, offers a satisfaction to the manes with water only, *being unable to give a repast*, he gains by that offering all the fruit of a *fráddha*.

284. ‘ The wife call our fathers, *Vasus*; our paternal grandfathers, *Rudras*; our paternal great grandfathers, *A'dityas* (that is, *all are to be revered as deities*); and to this effect there is a primeval text in the *Véda*.

285. ‘ Let

285. ' Let a man, who is able, continually feed on *vighasa*, and
' continually feed on *amṛita*: by *vighasa* is meant the residue of a
' repast at obsequies; and by *amṛita*, the residue of a sacrifice to
' the gods.

286. ' THIS complete system of rules, for the five sacraments and the
' like, has been declared to you: now hear the law for those means of
' subsistence, which the chief of the twice-born may seek.

1. Let a man, who is able, consistently with the laws of a community, to do as he pleases, be allowed to do so, in the exercise of his rights, so far as they do not conflict with the rights of others.

2. This is the principle of liberty, which is the basis of all civil liberty. It is the right of every man to do as he pleases, so far as he does not conflict with the rights of others.

3. Let a man, having done with a piece of property, the full value of a man's life, pay the second quarter of his income to the man who has contracted a legal marriage.

4. Let a man, with his wife, or with the least possible injury, to himself or to others, be permitted to do as he pleases, in the exercise of his rights, so far as they do not conflict with the rights of others.

5. Let the full value of a man's life, be paid to him, when he has done with a piece of property, the full value of a man's life, pay the second quarter of his income to the man who has contracted a legal marriage.

6. Let a man, with his wife, or with the least possible injury, to himself or to others, be permitted to do as he pleases, in the exercise of his rights, so far as they do not conflict with the rights of others.

7. Let a man, with his wife, or with the least possible injury, to himself or to others, be permitted to do as he pleases, in the exercise of his rights, so far as they do not conflict with the rights of others.

8. Let a man, with his wife, or with the least possible injury, to himself or to others, be permitted to do as he pleases, in the exercise of his rights, so far as they do not conflict with the rights of others.

CHAPTER THE FOURTH.

On Economicks; and Private Morais.

1. 'LET a *Bráhmen*, having dwelt with a preceptor during the
 ' first quarter of a man's life, pass the second quarter of human life in
 ' his own house, when he has contracted a legal marriage.

2. ' He must live, with no injury, or with the least possible injury,
 ' to animated beings, by pursuing those means of gaining subsistence,
 ' which are strictly prescribed by law, except in times of distress:

3. ' For the sole purpose of supporting life, let him acquire pro-
 ' perty by those irreproachable occupations, which are peculiar to his
 ' class, and unattended with bodily pain.

4. ' He may live by *rīta* and *amṛita*, or, if necessary, by *mṛita*, or
 ' *pramṛita*, or even by *satyānṛita*; but never let him subsist by
 ' *śwavṛitti*:

5. ' By *rīta*, must be understood lawful gleaning and gathering; by
 ' *amṛita*, what is given unasked; by *mṛita*, what is asked as alms;
 ' tillage is called *pramṛita*;

6. ‘ Traffick and moneylending are *satyánrīta*; even by them,
 ‘ when he is deeply distressed, may he support life; but service for hire is
 ‘ named *śwavrīti*, or *dog-living*, and of course he must by all means
 ‘ avoid it.

7. ‘ He may either store up grain for three years; or garner up
 ‘ enough for one year; or collect what may last three days; or make
 ‘ no provision for the morrow.

8. ‘ Of the four *Brāhmens* keeping house, who follow those four
 ‘ different modes, a preference is given to the last in order successively;
 ‘ as to him, who most completely by virtue has vanquished the world:

9. ‘ One of them subsists by all the six means of livelihood; another
 ‘ by three of them; a third, by two only; and a fourth lives barely on
 ‘ continually teaching the *Vēda*.

10. ‘ He, who sustains himself by picking up grains and ears, must
 ‘ attach himself to some altar of consecrated fire, but constantly per-
 ‘ form those rites only, which end with the dark and bright fortnights
 ‘ and with the solstices.

11. ‘ Let him never, for the sake of a subsistence, have recourse to
 ‘ popular conversation; let him live by the conduct of a priest, neither
 ‘ crooked, nor artful, nor blended with the manners of the mercantile
 ‘ class.

12. ‘ Let him, if he seek happiness, be firm in perfect content, and
 ‘ check all desire of acquiring more than he possesses; for happiness has
 ‘ its root in content, and discontent is the root of misery.

13. ‘ A

13. ' A *Bráhmen* keeping house, and supporting himself by any of
' the *legal* means before mentioned, must discharge these *following*
' duties, which conduce to fame, length of life, and beatitude.

14. ' Let him daily without sloth perform his peculiar duty, which
' the *Véda* prescribes; for he, who performs that *duty*, as well as he is
' able, attains the highest path to supreme bliss.

15. ' He must not gain wealth *by musick or dancing, or* by any art
' that pleases the sense; nor by any prohibited art; nor, whether he be
' rich or poor, *must he receive gifts* indiscriminately.

16. ' Let him not, from a selfish appetite, be strongly addicted
' to any sensual gratification; let him, by improving his intellect,
' studiously preclude an excessive attachment to such pleasures, *even*
' though lawful.

17. ' All kinds of wealth, that may impede his reading the *Véda*,
' let him wholly abandon, persisting by all means in the study of
' scripture; for that will be found his most beneficial attainment.

18. ' Let him pass through this life, bringing his apparel, his dis-
' course, and his frame of mind, to a conformity with his age, his
' occupations, his property, his divine knowledge, and his family.

19. ' Each day let him examine those holy books, which soon give
' increase of wisdom; and those, which teach the means of acquiring
' wealth; those, which are salutary to life; and those *nigamas*, which
' are explanatory of the *Véda*;

20. ' Since,

20. ' Since, as far as a man studies completely the system of sacred literature, so far only can he become eminently learned, and so far may his learning shine brightly.

21. ' The sacramental oblations to sages, to the gods, to spirits, to men, and to his ancestors, let him constantly perform to the best of his power.

22. ' Some, who well know the ordinances for those oblations, perform not always externally the five great sacraments, but continually make offerings in their own organs *of sensation and intellect*:

23. ' Some constantly sacrifice their breath in their speech, *when they instruct others, or praise God aloud*, and their speech in their breath, *when they meditate in silence*; perceiving in their speech and breath *thus employed* the unperishable fruit of a sacrificial offering:

24. ' Other *Bráhmens* incessantly perform those sacrifices with scriptural knowledge only; seeing with the eye of divine learning, that scriptural knowledge is the root of every ceremonial observance.

25. ' Let a *Bráhmen* perpetually make oblations to consecrated fire, at the beginning and end of day and night, and at the close of each fortnight, *or at the conjunction and opposition*:

26. ' At the season, when old grain is usually consumed, let him offer new grain for a plentiful harvest; and at the close of the season, let him perform the rites called *adbvara*; at the solstices let him sacrifice cattle; at the end of the year, let his oblations be made with the juice of the moonplant:

27. ' Not

27. ' Not having offered grain for the harvest, nor cattle *at the time*
' *of the solstice*, let no *Bráhmén*, who keeps hallowed fire, and wishes
' for long life, taste rice or flesh ;

28. ' Since the holy fires, not being honoured with new grain and
' with a sacrifice of cattle, are greedy for rice and flesh, and seek to
' devour his vital spirits.

29. ' Let him take care, to the utmost of his power, that no guest
' sojourn in his house unhonoured with a seat, with food, with a bed,
' with water, with esculent roots, and with fruit :

30. ' But, let him not honour with his conversation such as do
' forbidden acts ; such as subsist, like cats, *by interested craft* ; such, as
' believe not the scripture ; such as oppugn it by sophisms ; or such as
' live like rapacious waterbirds.

31. ' With oblations to the gods and to ancestors, let him do re-
' verence to *Bráhmén*s of the second order, who are learned in theology,
' who have returned home from their preceptors, after having per-
' formed their religious duties and fully studied the *Véda* ; but men of
' an opposite description let him avoid.

32. ' Gifts must be made by each house-keeper, as far as he has
' ability, to religious mendicants, though heterodox ; and a just portion
' must be reserved, without inconvenience to his family, for all sentient
' beings, *animal and vegetable*.

33. ' A priest, who is master of a family, and pines with hunger,
' may seek wealth from a king *of the military class*, from a sacrificer,
' or

‘ or his own pupil, but from no person else, *unless all other helps fail*:
 ‘ thus *will he shew his* respect for the law.

34. ‘ Let no priest, who keeps house, *and is able to procure food*, ever
 ‘ waste himself with hunger; nor, when he has any substance, let him
 ‘ wear old or sordid clothes.

35. ‘ His hair, nails, and beard, being clipped; *his passions* subdued;
 ‘ his mantle, white; his body, pure; let him diligently occupy himself
 ‘ in reading the *Véda*, and be constantly intent on such acts, as may be
 ‘ salutary to him.

36. ‘ Let him carry a staff of *Vénu*, an ewer with water in it, a
 ‘ handful of *cus'a-grafs*, or *a copy of the Véda*; with a pair of bright
 ‘ golden rings in his ears.

37. ‘ He must not gaze on the sun, whether rising or setting, or
 ‘ eclipsed, or reflected in water, or advanced to the middle of the sky.

38. ‘ Over a string, to which a calf is tied, let him not step; nor
 ‘ let him run, while it rains; nor let him look on his own image in
 ‘ water: this is a settled rule.

39. ‘ By a mound of earth, by a cow, by an idol, by a *Brábmén*, by
 ‘ a pot of clarified butter, or of honey, by a place where four ways
 ‘ meet, and by large trees well known in the district, let him pass with
 ‘ his right hand toward them.

40. ‘ Let him not, though mad with desire, approach his wife, when
 ‘ her courses appear; nor let him then sleep with her in the same bed;

41. ‘ Since

41. ' Since the knowledge, the manhood, the strength, the eye-
' fight, even the vital spirit, of him, who approaches his wife thus
' defiled, utterly perish ;

42. ' But the knowledge, the manhood, the strength, the fight, and
' the life of him, who avoids her in that state of defilement, are
' greatly increased.

43. ' Let him neither eat with his wife, nor look at her eating, or
' sneezing, or yawning, or sitting carelessly at her ease ;

44. ' Nor let a *Bráhmén*, who desires manly strength, behold her
' setting off her eyes with black powder, or scenting herself with es-
' sences, or baring her bosom, or bringing forth a child.

45. ' Let him not eat his food, wearing only a single cloth ; nor let
' him bathe quite naked ; nor let him eject urine or feces in the high-
' way, nor on ashes, nor where kine are grazing,

46. ' Nor on tilled ground, nor in water, nor on wood raised for
' burning, nor, *unless he be in great need*, on a mountain, nor on the
' ruins of a temple, nor at any time on a nest of white ants,

47. ' Nor in ditches with living creatures in them, nor walking,
' nor standing, nor on the bank of a river, nor on the summit of
' a mountain :

48. ' Nor let him ever eject them, looking at *things moved by the*
' wind, or at fire, or at a priest, or at the sun, or at water, or at
' cattle ;

49. ' But

49. ' But let him void his excrements, having covered the earth
' with wood, potherbs, *dry* leaves and grafs, or the like, carefully
' fuppreffing his utterance, wrapping up his breaft and his head:

50. ' By day let him void them with his face to the north; by
' night, with his face to the fouth; at funrife and funfet, in the fame
' manner as by day;

51. ' In the fhade or in darknefs, whether by day or by night, let a
' *Bráhmén* eafe nature with his face turned as he pleafes; and in places
' where he fears injury to life *from wild beafts or from reptiles*.

52. ' Of him, who fhould urine againft fire, againft the fun or the
' moon, againft a twice-born man, a cow, or the wind, all the facred
' knowledge would perifh.

53. ' Let him not blow the fire with his mouth; let him not fee his
' wife naked; let him not throw any foul thing into fire; nor let
' him warm his feet in it;

54. ' Nor let him place it *in a chafing difh* under *his bed*; nor let him
' ftride over it; nor let him keep it, *while he fleeps*, at his feet: let
' him do nothing, that may be injurious to life.

55. ' At the time of funrife or funfet, let him not eat, nor travel,
' nor lie down to reft; let him not idly draw lines on the ground; nor
' let him take off his own chaplet of flowers.

56. ' Let him not caft into water either urine or ordure, nor faliva,
' nor cloth, or any other thing, foiled with impurity, nor blood, nor
' any kinds of poifon.

57. ' Let

57. ' Let him not sleep alone in an empty house; nor let him wake
 ' a sleeping man *superiour to himself in wealth and in learning*; nor let
 ' him speak to a woman at the time of her courses; nor let him go to
 ' perform a sacrifice, unattended by an officiating priest.

58. ' In a temple of consecrated fire, in the pasture of kine, in the
 ' presence of *Bráhmens*, in reading the *Véda*, and in eating his food,
 ' let him hold out his right arm uncovered.

59. ' Let him not interrupt a cow while she is drinking, nor give
 ' notice to any, whose milk or water she drinks; nor let him, who knows
 ' right from wrong, and sees in the sky the bow of INDRA, show it to
 ' any man.

60. ' Let him not inhabit a town, in which civil and religious duties
 ' are neglected; nor, for a long time, one in which diseases are fre-
 ' quent: let him not begin a journey alone: let him not reside long on
 ' a mountain.

61. ' Let him not dwell in a city governed by a *Súdra* king, nor
 ' in one surrounded with men unobservant of their duties, nor in one
 ' abounding with professed hereticks, nor in one swarming with low-
 ' born outcasts.

62. ' Let him eat no vegetable, from which the oil has been ex-
 ' tracted; nor indulge his appetite to satiety; nor eat either too early
 ' or too late; nor take any food in the evening, if he have eaten to
 ' fulness in the morning.

63. ' Let him make no vain corporeal exertion: let him not sip
 ' water taken up with his closed fingers: let him eat nothing placed in
 ' his lap: let him never take pleasure in asking idle questions.

64. ' Let him neither dance nor sing, nor play on musical instruments, *except in religious rites*; nor let him strike his arm, or gnash his teeth, or make a braying noise, though agitated by passion.

65. ' Let him not wash his feet in a pan of mixed yellow metal; nor let him eat from a broken dish, nor where his mind is disturbed with anxious apprehensions.

66. ' Let him not use either slippers or clothes, or a sacerdotal string, or an ornament, or a garland, or a waterpot, which before have been used by another.

67. ' With untrained beasts of burden let him not travel; nor with such, as are oppressed by hunger or by disease; nor with such as have imperfect horns, eyes, or hoofs; nor with such as have ragged tails:

68. ' But let him constantly travel with beasts well trained, whose pace is quick, who bear all the marks of a good breed, who have an agreeable colour, and a beautiful form; giving them very little pain with his whip.

69. ' The fun in the sign of *Canyà*, the smoke of a burning corse, and a broken feat, must be shunned: he must never cut his own hair and nails, nor ever tear his nails with his teeth.

70. ' Let him not break mould or clay *without cause*: let him not cut grass with his nails; let him neither indulge any vain fancy, nor do any act, that can bring no future advantage:

71. ' He, who *thus idly* breaks clay, or cuts grass, or bites his nails, will speedily sink to ruin; and *so shall* a detractor, and an unclean person.

72. ' Let

72. ' Let him use no contumelious phrase : let him wear no garland
' except on his hair : to ride on the back of a bull or cow, is in all
' modes culpable.

73. ' Let him not pass, otherwise than by the gate, into a walled
' town, or an inclosed house ; and by night let him keep aloof from the
' roots of trees.

74. ' Never let him play with dice : let him not put off his sandals
' with his hand : let him not eat, while he reclines on a bed, nor what
' is placed in his hand, or on a bench ;

75. ' Nor, when the sun is set, let him eat any thing mixed with
' *tila* ; nor let him ever in this world sleep quite naked ; nor let him
' go any whither with a remnant of food in his mouth.

76. ' Let him take his food, having sprinkled his feet with water ;
' but never let him sleep with his feet wet : he, who takes his food
' with his feet so sprinkled, will attain long life.

77. ' Let him never advance into a place undistinguishable by his
' eye, or not easily passable : never let him look at urine or ordure ;
' nor let him pass a river *swimming* with his arms.

78. ' Let not a man, who desires to enjoy long life, stand upon hair,
' nor upon ashes, bones, or potsherds, nor upon seeds of cotton, nor
' upon husks of grain.

79. ' Nor let him tarry *even under the shade of the same tree* with
' outcasts for great crimes, nor with *Chandálas*, nor with *Puccasas*, nor
' with

‘ with idiots, nor with men proud of wealth, nor with *washermen*
 ‘ and other vile persons, nor with *Antyavafáyins*.

80. ‘ Let him not give *even temporal* advice to a *Súdra*; nor, *except*
 ‘ to his own *servant*, what remains from his table; nor clarified butter,
 ‘ of which part has been offered *to the gods*; nor let him *in person* give
 ‘ spiritual counsel to such a man, nor *personally* inform him of the
 ‘ legal expiation for his sin:

81. ‘ Surely he, who declares the law to a *fervile* man, and he,
 ‘ who instructs him in the mode of expiating sin, *except by the in-*
 ‘ *tervention of a priest*, sinks with that very man into the hell named
 ‘ *Asamvríta*.

82. ‘ Let him not stroke his head with both hands; nor let him
 ‘ even touch it, while food remains in his mouth; nor without *bathing*
 ‘ it, let him bathe his body.

83. ‘ Let him not *in anger* lay hold of hair, or smite any one on the
 ‘ head; nor let him, after his head has been rubbed with oil, touch
 ‘ *with oil* any of his limbs.

84. ‘ From a king, not born in the military class, let him accept
 ‘ no gift, nor from such as keep a slaughterhouse or an oilpress, or put
 ‘ out a vintner’s flag, or subsist by the gain of prostitutes:

85. ‘ One oilpress is as bad as ten slaughterhouses; one vintner’s
 ‘ flag, as ten oilpresses; one prostitute, as ten vintner’s flags; one
 ‘ *such* king, as ten prostitutes;

86. ‘ With

86. ' With a slaughterer, *therefore*, who employs ten thousand
' slaughterhouses, a king, *not a soldier by birth*, is declared to be on a
' level; *and* a gift from him is tremendous.

87. ' He, who receives a present from an avaricious king and a
' transgressor of the sacred ordinances, goes in succession to the fol-
' lowing twenty-one hells:

88. ' *Támisra, Andhatámisra, Maháraurava, Raurava, Naraca, Cála-*
' *sútra*, and *Mahánaraca*;

89. ' *Sanjivana, Mahávíchi, Tapana, Sampratápana, Sanháta, Sacácóla,*
' *Cudmala, Pútimrittica*;

90. ' *Lóhasancu*, or *ironspiked*, and *Rijísba, Pant'hána*, the river
' *Sálmali, Asipatravana*, or *the swordleaved forest*, and *Lóh'ángáraca*,
' or *the pit of redhot charcoal*.

91. ' *Bráhmens*, who know this *law*, who speak the words of the
' *Véda*, and who seek bliss after death, accept no gifts from a king.

92. ' LET the housekeeper wake in the time sacred to BRA'HMI,
' *the goddess of speech, that is, in the last watch of the night*: let him
' then reflect on virtue and virtuous emoluments, on the bodily labour,
' which they require, and on the whole meaning and very essence
' of the *Véda*.

93. ' Having risen, having done what nature makes necessary,
' having then purified himself and fixed his attention, let him stand a
' long time repeating the *gáyatrì* for the first or morning twilight; as
' he must, for the last or evening twilight in its proper time.

94. ' By

94. ' By continued repetition of the *gáyatrì* at the twilights, the
' holy sages acquire length of days, perfect knowledge, reputation during
' life, fame after death, and celestial glory.

95. ' Having duly performed the *upácarma*, or *domestick ceremony*
' *with sacred fire*, at the full moon of *Srávana* or of *Bhádra*, let
' the *Bráhmen*, fully exerting his intellectual powers, read the *Védas*
' during four months and one fortnight :

96. ' Under the lunar asterism *Pushya*, or on the first day of the
' bright half of *Mágha*, and in the first part of the day, let him per-
' form, out of the town, *the ceremony called the utserga* of the *Védas*.

97. ' Having performed that ceremony out of town, as the law
' directs, let him desist from reading for one *intermediate* night winged
' *with two days*, or for that day and *that following* night only ;

98. ' But after that *intermission*, let him attentively read the *Védas*
' in the bright fortnights; and in the dark fortnights let him constantly
' read all the *Védángas*.

99. ' He must never read the *Véda* without accents and letters well
' pronounced; nor ever in the presence of *Súdras*; nor, *having begun*
' *to read it* in the last watch of the night, must he, though fatigued,
' sleep again.

100. ' By the rule just mentioned let him continually, with his
' faculties exerted, read the *Mantras*, or holy texts, composed in re-
' gular measures; and, when he is under no restraint, let him read
' both the *Mantras* and the *Bráhmanas*, or chapters on the attributes of
' God.

101. ' LET

101. ' LET a reader of the *Véda*, and a teacher of it to his pupils,
' in the form prescribed, always avoid reading on the following pro-
' hibited days.

102. ' By night, when the wind meets his ear, and by day when
' the dust is collected, *he must not read* in the season of rain; since both
' those times are declared unfit for reading, by such as know when the
' *Véda* ought to be read.

103. ' In lightning, thunder, *and* rain, or during the fall of large
' fireballs on all sides, at such times MENU has ordained the reading
' of scripture to be deferred till the same time next day.

104. ' When the priest perceives those accidents occurring at once,
' while his fires are kindled for *morning and evening* sacrifices, then let
' him know, that the *Véda* must not be read; and when clouds are
' seen gathered out of season.

105. ' On the occasion of a preternatural sound from the sky, of an
' earthquake, or an obscuration of the heavenly bodies, even in due
' season, let him know, that his reading must be postponed till the
' proper time:

106. ' But if, while his fires are blazing, the sound of lightning and
' thunder is heard *without rain*, his reading must be discontinued,
' only while the phenomenon lasts; the remaining event, *or rain also*,
' happening, it must cease for a night and a day.

107. ' The reading of such, as wish to attain the excellent reward
' of virtue, must continually be suspended in towns and in cities, and
' always where an offensive smell prevails.

108. ' In

108. ' In a district, through which a corpse is carried, and in the
' presence of an unjust person, the reading of scripture must cease;
' *and* while the sound of weeping is heard; and in a promiscuous
' assembly of men.

109. ' In water, near midnight, and while the two natural excre-
' tions are made, or with a remnant of food in the mouth, or when
' the *śrāddha* has recently been eaten, let no man even meditate in his
' heart *on the holy texts*.

110. ' A learned *Brāhmen*, having received an invitation to the
' obsequies of a single ancestor, must not read the *Vēda* for three
' days; nor when the king has a son born; nor when the dragon's
' head causes an eclipse.

111. ' As long as the scent and unctuousity of perfumes remain on
' the body of a learned priest, who has partaken of an entertainment,
' so long he must abstain from pronouncing the texts of the *Vēda*.

112. ' Let him not read lolling on a couch, nor with his feet raised
' on a bench, nor with his thighs crossed, nor having lately swallowed
' meat, or the rice and other food *given* on the birth or death of a
' relation;

113. ' Nor in a cloud of dust, nor while arrows whiz, *or a lute*
' *sounds*, nor in either of the twilights, nor at the conjunction, nor on
' the fourteenth day, nor at the opposition, nor on the eighth day, of
' the moon:

114. ' The dark lunar day destroys the spiritual teacher; the four-
' teenth destroys the learner; the eighth and the day of the full moon
' destroy

‘ destroy *all remembrance of scripture* ; for which reasons he must avoid
 ‘ reading on those lunar days.

115. ‘ Let no *Bráhmén* read, while dust falls like a shower, nor while
 ‘ the quarters of the firmament are inflamed, nor while shakals yell, nor
 ‘ while dogs bark or yelp, nor while asses or camels bray, nor while
 ‘ men in company chatter.

116. ‘ He must not read near a cemetery, near a town, or in a pas-
 ‘ ture for kine ; nor in a mantle worn before at a time of dalliance ;
 ‘ nor having just received the present usual at obsequies :

117. ‘ Be it an animal, or a thing inanimate, or whatever be the gift
 ‘ at a *fráddha*, let him not, having lately accepted it, read the *Véda* ;
 ‘ for such a *Bráhmén* is said to have his mouth in his hand.

118. ‘ When the town is beset by robbers, or an alarm has been
 ‘ raised by fire, and in all terrors from strange phenomena, let him
 ‘ know, that his lecture must be suspended till the due time *after the*
 ‘ *cause of terror has ceased*.

119. ‘ The suspension of reading scripture, after a performance of
 ‘ the *upácarma* and *utserga*, must be for three whole nights, *by the*
 ‘ *man who seeks virtue more than knowledge* ; also for one day and night,
 ‘ on the eighth lunar days which follow those ceremonies, and on the
 ‘ nights at the close of the seasons.

120. ‘ Never let him read on horseback, nor on a tree, nor on an
 ‘ elephant, nor in a boat, nor on an ass, nor on a camel, nor standing
 ‘ on barren ground, nor borne in a carriage ;

121. ‘ Nor during a verbal altercation, nor during a mutual assault,
 ‘ nor with an army, nor in battle, nor after food, *while his hand is moist*
 ‘ *from washing*, nor with an indigestion, nor after vomiting, nor with
 ‘ four eructations;

122. ‘ Nor without notice to a guest just arrived, nor while the
 ‘ wind vehemently blows, nor when blood gushes from his body, nor
 ‘ when it is wounded by a weapon.

123. ‘ While the strain of the *Sáman* meets his ear, he shall not read
 ‘ the *Rích*, or the *Yajush*; nor any part of the *Véda*, when he has just
 ‘ concluded the whole; nor *any other part*, when he has just finished
 ‘ the book entitled *A'ranyaca*:

124. ‘ The *Rigvéda* is held sacred to the gods; the *Yajurveda* relates
 ‘ to mankind; the *Sámanvéda* concerns the manes of ancestors, and the
 ‘ sound of it, *when chanted*, raises therefore a notion of something im-
 ‘ pure.

125. ‘ Knowing this *collection of rules*, let the learned read the *Véda*
 ‘ on every *lawful* day, having first repeated in order the pure essence
 ‘ of the three *Védas*, namely, the *pranava*, the *vyábrītis*, and the *gáyatrī*.

126. ‘ If a beast used in agriculture, a frog, a cat, a dog, a snake, an
 ‘ ichneumon, or a rat, pass between *the lecturer and his pupil*, let him
 ‘ know, that the lecture must be intermitted for a day and a night.

127. ‘ Two occasions, when the *Véda* must not be read, let a *Bráh-*
 ‘ *men* constantly observe with great care; *namely*, when the place for
 ‘ reading it is impure, and when he is himself unpurified.

128. ‘ ON

128. ' ON the dark night of the moon, and on the eighth, on the
' night of the full moon, and on the fourteenth, let a *Bráhmén*, who
' keeps house, be continually chaste as a student in theology, even in
' the season of nuptial embraces.

129. ' Let him not bathe, having just eaten; nor while he is afflicted
' with disease; nor in the middle of the night; nor with many clothes;
' nor in a pool of water imperfectly known.

130. ' Let him not intentionally pass over the shadow of sacred
' images, of a natural or spiritual father, of a king, of a *Bráhmén*, who
' keeps house, or of any reverend personage; nor of a redhaired *or*
' coppercoloured man; nor of one, who has just performed a sacrifice.

131. ' At noon or at midnight, or having eaten flesh at a *fráddha*,
' or in either of the twilights, let him not long tarry, where four ways
' meet.

132. ' He must not stand knowingly near oil and other things, with
' which a man has rubbed his body, or water, in which he has washed
' himself, or feces and urine, or blood, or mucus, or any thing chewed
' and spitten out, or any thing vomited.

133. ' Let him show no particular attention to his enemy, or his
' enemy's friend, to an unjust person, to a thief, or to the wife of
' another man;

134. ' Since nothing is known in this world so obstructive to
' length of days, as the culpable attention of a man to the wife
' of another.

135. ' Never

135. ' Never let him, who desires an increase of wealth, despise a
' a warrior, a serpent, or a priest versed in scripture, how mean so-
' ever *they may appear* ;

136. ' Since those three, when contemned, may destroy a man ; let
' a wife man therefore always beware of treating those three with
' contempt :

137. ' Nor should he despise *even* himself on account of previous
' miscarriages : let him pursue fortune till death, nor ever think her
' hard to be attained.

138. ' Let him say what is true, but let him say what is pleasing ;
' let him speak no disagreeable truth, nor let him speak agreeable
' falsehood : this is a primeval rule.

139. ' Let him say " well and good," or let him say " well" only ;
' but let him not maintain fruitless enmity and altercation with any man.

140. ' Let him not journey too early in the morning or too late in
' the evening, nor too near the midday, nor with an unknown com-
' panion, nor alone, nor with men of the fervile class.

141. ' Let him not insult those, who want a limb, or have a limb
' redundant, who are unlearned, who are advanced in age, who have
' no beauty, who have no wealth, or who are of an ignoble race.

142. ' Let no priest, unwashed after food, touch with his hand a
' cow, a *Bráhmén*, or fire ; nor, being in good health *and* unpurified, let
' him even look at the luminaries in the firmament :

143. ' But,

143. ' But, having accidentally touched them before his purification,
' let him ever sprinkle, with water in the palm of his hand, his organs
' of sensation, all his limbs, and his navel.

144. ' Not being in pain from disease, let him never without cause
' touch the cavities of his body ; and carefully let him avoid his con-
' cealed hair.

145. ' Let him be intent on *those propitious observances which lead to*
' good fortune, and on the discharge of his customary duties, his body
' and mind being pure, and his members kept in subjection ; let him
' constantly without remissness repeat the *gáyatrì*, and present his ob-
' lation to fire :

146. ' To those, who are intent on good fortune and on the discharge
' of their duties, who are always pure, who repeat the holy text and
' make oblations to fire, no calamity happens.

147. ' In due season let him ever study the scripture without negli-
' gence ; for the sages call that his principal duty : every other duty is
' declared to be subordinate.

148. ' By reading the *Véda* continually, by purity of body and mind,
' by rigorous devotion, and by doing no injury to animated creatures,
' he brings to remembrance his former birth :

149. ' A *Bráhmen*, remembering his former birth, again reads the
' *Véda*, and, by reading it constantly, attains bliss without end.

150. ' On the days of the conjunction and opposition, let him con-
' stantly make those oblations, which are hallowed by the *gáyatrì*, and
' those,

‘ those, which avert misfortune; but on the eighth and ninth lunar days
 ‘ *of the three dark fortnights after the end of Agraháyan*, let him always
 ‘ do reverence to the manes of ancestors.

151. ‘ Far from the mansion of holy fire, let him remove all ordure ;
 ‘ *far let him remove* water, in which feet have been washed; *far let him*
 ‘ *remove* all remnants of food, and all feminal impurity.

152. ‘ At the beginning of each day let him discharge his feces,
 ‘ bathe, rub his teeth, apply a collyrium to his eyes, adjust his dress,
 ‘ and adore the gods.

153. ‘ On the dark lunar day, and on the other monthly *parvans*, let
 ‘ him visit the images of deities, and *Bráhmens* eminent in virtue, and
 ‘ the ruler of the land, for the sake of protection, and those whom he
 ‘ is bound to revere.

154. ‘ Let him humbly greet venerable men, *who visit him*, and give
 ‘ them his own seat; let him sit near them, closing the palms of his
 ‘ hands; and when they depart, let him walk some way behind
 ‘ them.

155. ‘ Let him practise without intermission that system of ap-
 ‘ proved usages, which is the root of all duty religious and civil,
 ‘ declared at large in the scripture and sacred lawtracts, together
 ‘ with the ceremonies peculiar to each act;

156. ‘ Since by such practice long life is attained; by such practice
 ‘ *is gained* wealth unperishable; such practice baffles every mark of ill
 ‘ fortune :

157. ‘ But,

157. ' But, by an opposite practice, a man surely sinks to contempt
' in this world, has always a large portion of misery, is afflicted with
' disease and shortlived ;

158. ' While the man, who is observant of approved usages, endued
' with faith in scripture, and free from a spirit of detraction, lives a
' hundred years, even though he bear no bodily mark of a prosperous
' life.

159. ' Whatever act depends on another man, that act let him care-
' fully shun ; but whatever depends on himself, to that let him stu-
' diously attend :

160. ' ALL, THAT DEPENDS ON ANOTHER, GIVES PAIN ; AND ALL,
' THAT DEPENDS ON HIMSELF, GIVES PLEASURE ; let him know this
' to be in few words the definition of pleasure and pain.

161. ' When an act, *neither prescribed nor prohibited*, gratifies the
' mind of him, who performs it, let him perform it with diligence ; but
' let him avoid its opposite.

162. ' Him, by whom he was invested with the sacrificial thread,
' him, who explained the *Vêda* or even a part of it, his mother, and
' his father, natural or spiritual, let him never oppose ; nor priests, nor
' cows, nor persons truly devout.

163. ' Denial of a future state, neglect of the scripture, and con-
' tempt of the deities, envy and hatred, vanity and pride, wrath and
' severity, let him at all times avoid.

164. ' Let

164. ' Let him not, when angry, throw a stick at another man,
' nor smite him with any thing; unless he be a son or a pupil: those
' two he may chastise for their *improvement* in learning.

165. ' A twice-born man, who barely assaults a *Bráhmén* with in-
' tention to hurt him, shall be whirled about for a century in the hell
' named *Támisra*;

166. ' *But*, having smitten him in anger and by design, even with
' a blade of grass, he shall be born, in one and twenty transmigrations,
' from the wombs of impure quadrupeds.

167. ' He, who, through ignorance of the law, sheds blood from
' the body of a *Bráhmén*, not engaged in battle, shall feel excessive
' pain in his future life:

168. ' As many particles of dust as the blood shall roll up from the
' ground, for so many years shall the shedder of that blood be mangled
' by other animals in his next birth.

169. ' Let not him then, who knows *this law*, even assault a
' *Bráhmén* at any time, nor strike him even with grass, nor cause
' blood to gush from his body.

170. ' *EVEN* here below an unjust man attains no felicity; nor he,
' whose wealth proceeds from giving false evidence; nor he, who
' constantly takes delight in mischief.

171. ' Though oppressed by penury, in consequence of his righte-
' ous dealings, let him never give his mind to unrighteousness;
' for

‘ for he may observe the speedy overthrow of iniquitous and sinful
‘ men.

172. ‘ Iniquity, committed in this world, produces not fruit imme-
‘ diately, *but*, like the earth, *in due season*; and, advancing by little
‘ and little, it eradicates the man, who committed it.

173. ‘ Yes; iniquity, once committed, fails not of producing fruit
‘ to him, who wrought it; if not in his own person, yet in his sons;
‘ or, if not in his sons, yet in his grandsons:

174. ‘ He grows rich for a while through unrighteousness; then he
‘ beholds good things; then it is, that he vanquishes his foes; but he
‘ perishes at length from his whole root upwards.

175. ‘ LET a man continually take pleasure in truth, in justice, in
‘ laudable practices, and in purity; let him chastise those, whom he
‘ may chastise, in a legal mode; let him keep in subjection his speech,
‘ his arm, and his appetite:

176. ‘ Wealth and pleasures, repugnant to law, let him shun; and
‘ even lawful acts, which may cause future pain, or be offensive to
‘ mankind.

177. ‘ Let him not have nimble hands, restless feet, or voluble
‘ eyes; let him not be crooked in his ways; let him not be flippant in
‘ his speech, nor intelligent in doing mischief.

178. ‘ Let him walk in the path of good men; the path, in which
‘ his parents and forefathers walked: while he moves in that path, he
‘ can give no offence.

179. ' WITH an attendant on consecrated fire, a performer of holy
 ' rites, and a teacher of the *Véda*, with his maternal uncle, with his
 ' guest or a dependant, with a child, with a man either aged or sick,
 ' with a physician, with his paternal kindred, with his relations by
 ' marriage, and with cousins on the side of his mother,

180. ' With his mother herself, or with his father, with his kinf-
 ' women, with his brother, with his son, his wife, or his daughter,
 ' and with his whole set of servants, let him have no strife.

181. ' A house-keeper, who shuns altercation with those *just men-*
 ' *tioned*, is released from all secret faults; and, by suppressing all such
 ' disputes, he obtains a victory over the following worlds:

182. ' The teacher of the *Véda* secures him the world of BRAH-
 ' MA'; his father, the world of *the Sun*, or of the *Prajápetis*; his
 ' guest, the world of INDRA; his attendance on holy fire, the world
 ' of *Dévas*;

183. ' His female relations, the world of celestial nymphs; his ma-
 ' ternal cousins, the world of the *Visvadávas*; his relations by affinity,
 ' the world of waters; his mother and maternal uncle give him power
 ' on earth;

184. ' Children, old men, poor dependants, and sick persons, must
 ' be considered as rulers of the pure ether; his elder brother, as equal
 ' to his father; his wife and son, as his own body;

185. ' His assemblage of servants, as his own shadow; his daughter,
 ' as the highest object of tenderness: let him, therefore, when offended
 ' by any of those, bear the offence without indignation.

186. ' THOUGH

186. ' THOUGH permitted to receive presents, let him avoid a habit
' of taking them ; since, by taking many gifts, his divine light soon
' fades.

187. ' Let no man of sense, who has not fully informed himself
' of the law concerning gifts of *particular* things, accept a present,
' even though he pine with hunger.

188. ' The man, who knows not that law, yet accepts gold or gems,
' land, a horse, a cow, food, raiment, oils or clarified butter, be-
' comes mere ashes, like wood consumed by fire :

189. ' Gold and gems burn up his nourishment and life ; land and a
' cow, his body ; a horse, his eyes ; raiment, his skin ; clarified butter,
' his manly strength ; oils, his progeny.

190. ' A twice-born man, void of true devotion, and not having
' read the *Véda*, yet eager to take a gift, sinks down together with
' it, as with a boat of stone in deep water.

191. ' Let him then, who knows not the law, be fearful of presents
' from this or that giver ; since an ignorant man, even by a small
' gift, may become helpless as a cow in a bog.

192. ' Let no man, apprized of this law, present even water to a
' priest, who acts like a cat, not to him, who acts like a bittern, nor
' to him, who is unlearned in the *Véda* ;

193. ' Since property, though legally gained, if it be given to either
' of those three, becomes prejudicial in the next world both to the
' giver and receiver :

194. ' As

194. ' As he, who tries to pass over deep water in a boat of stone,
' sinks to the bottom, so those two ignorant men, the receiver and the
' giver, sink to a region of torment.

195. ' A covetous wretch, who continually displays the flag of vir-
' tue, a pretender, a deluder of the people, is declared to be the man,
' who acts like a cat: he is an injurious hypocrite, a detractor from the
' merits of all men.

196. ' A twice-born man, with his eyes dejected, morose, intent on his
' own advantage, fly, and falsely demure, is he, who acts like a bittern.

197. ' Such priests, as live like bitterns, and such as demean themselves
' like cats, fall by that sinful conduct into the hell called *Andbatámisra*.

198. ' LET no man, having committed sin, perform a penance,
' under the pretext of austere devotion, disguising his crime under fic-
' titious religion and deceiving both women and low men:

199. ' Such impostors, though *Bráhmens*, are despised, in the next
' life and in this, by all who pronounce holy texts; and every reli-
' gious act fraudulently performed goes to evil beings.

200. ' He, who has no right to distinguishing marks, yet gains a
' subsistence by wearing false marks of distinction, takes to himself the
' sin committed by those who are entitled to such marks, and shall
' again be born from the womb of a brute animal.

201. ' NEVER let him bathe in the pool of another man; for he,
' who bathes in it *without licence*, takes to himself a small portion of
' the sins, which the maker of the pool has committed.

202. ' He,

202. ' He, who appropriates to his own use the carriage, the bed,
' the seat, the well, the garden, or the house of another man, who
' has not delivered them to him, assumes a fourth part of the guilt of
' their owner.

203. ' In rivers, in ponds dug by holy persons, and in lakes, let him
' always bathe; in rivulets also, and in torrents.

204. ' A WISE man should constantly discharge all the moral duties,
' though he perform not constantly the ceremonies of religion; since he
' falls low, if, while he performs ceremonial acts only, he discharge not
' his moral duties.

205. ' NEVER let a priest eat part of a sacrifice not begun with texts
' of the *Vêda*, nor of one performed by a common sacrificer, by a wo-
' man, or by an eunuch:

206. ' When those persons offer the clarified butter, it brings mis-
' fortune to good men, and raises aversion in the deities; such *oblations*,
' therefore, he must carefully shun.

207. ' Let him never eat the food of the insane, the wrathful, or the
' sick; nor that, on which lice have fallen; nor that, which has
' designedly been touched by a foot;

208. ' Nor that, which has been looked at by the slayer of a priest,
' or by any other deadly sinner, or has even been touched by a woman
' in her courses, or pecked by a bird, or approached by a dog;

209. ' Nor food which has been smelled by a cow; nor particu-
' larly that, which has been proclaimed *for all comers*; nor the food of
' associated

‘ associated knaves, or of harlots ; nor that, which is contemned by
‘ the learned in scripture ;

210. ‘ Nor that of a thief or a publick finger, of a carpenter, of
‘ an ufurer, of one who has recently come from a sacrifice, of a nig-
‘ gardly churl, or of one bound with fetters ;

211. ‘ Of one publicly defamed, of an eunuch, of an unchaste
‘ woman, or of a hypocrite ; nor any sweet thing turned acid, nor
‘ what has been kept a whole night ; nor the food of a servile man,
‘ nor the orts of another ;

212. ‘ Nor the food of a phyfician, or of a hunter, or of a difhoneft
‘ man, or of an eater of orts ; nor that of any cruel perfon ; nor of a
‘ woman in childbed ; nor of him, who rifes prematurely from table
‘ to make an ablution ; nor of her, whose ten days of purification
‘ have not elapsed ;

213. ‘ Nor that, which is given without due honour to honourable
‘ men ; nor any flefh, which has not been facrificed ; nor the food
‘ of a woman, who has neither a husband nor a fon ; nor that of a
‘ foe, nor that of the whole town, nor that of an outcaft, nor that on
‘ which any perfon has sneezed ;

214. ‘ Nor that of a backbiter, or of a falfe witnefs ; nor of one,
‘ who fells the reward of his facrifice ; nor of a publick dancer, or a
‘ tailor ; nor of him, who has returned evil for good ;

215. ‘ Nor that of a blackfmith, or a man of the tribe called
‘ *Nifbáda*, nor of a ftageplayer, nor of a worker in gold or in cane,
‘ nor of him who fells weapons ;

216. ‘ Nor

216. ' Nor of those, who train hunting dogs, or sell fermented liquor; nor of him who washes clothes, or who dyes them; nor of any malevolent person; nor of one, who ignorantly suffers an adulterer to dwell under his roof;

217. ' Nor of those, who knowingly bear with the paramours of their own wives, or are constantly in subjection to women; nor food given for the dead before ten days of purification have passed; nor any food whatever, but that which satisfies him.

218. ' Food given by a king, impairs his manly vigour; by one of the servile class, his divine light; by goldsmiths, his life; by leatherscutters, his good name:

219. ' Given by *cooks and the like* mean artificers, it destroys his offspring; by a washerman, his muscular strength; but the food of knavish associates and harlots excludes him from heaven:

220. ' The food of a physician is purulent; that of a libidinous woman, feminal; that of an usurer, feculent; that of a weapon-feller, filthy:

221. ' That of all others, mentioned in order, whose food must never be tasted, is held equal by the wise to the skin, bones, and hair of the dead.

222. ' Having unknowingly swallowed the food of any such persons, he must fast during three days; but, having eaten it knowingly, he must perform the same harsh penance, as if he had tasted any feminal impurity, ordure, or urine.

223. ' Let

223. ' Let no learned priest eat the dressed grain of a fervile
' man, who performs no parental obsequies; but, having no other
' means to live, he may take from him raw grain enough for a single
' night.

224. ' The deities, having well considered the food of a niggard,
' who has read the scripture, and that of an usurer, who bestows gifts
' liberally, declared the food of both to be equal in quality;

225. ' But BRAHMA, advancing toward the gods, thus addressed
' them: " Make not that equal, which in truth is unequal; since the
" food of a liberal man is purified by faith, while that of a learned
" miser is defiled by his want of faith in what he has read."

226. ' LET each *wealthy* man continually and sedulously perform
' sacred rites, and consecrate pools or gardens with faith; since those
' two acts, accomplished with faith and with riches honestly gained,
' procure an unperishable reward.

227. ' If he meet with fit objects of benevolence, let him constantly
' bestow gifts on them, both at sacrifices and consecrations, to the best
' of his power and with a chearful heart;

228. ' Such a gift, how small soever, bestowed on request without
' grudging, passes to a worthy object, who will secure the giver from
' all evil.

229. ' A giver of water obtains content; a giver of food, extreme
' bliss; a giver of *tila*, desired offspring; a giver of a lamp, un-
' blemished eyefight;

230. ' A

230. ' A giver of land obtains landed property; a giver of gems
' or gold, long life; a giver of a house, the most exalted mansion; a
' giver of silver, exquisite beauty;

231. ' A giver of clothes, the same station with CHANDRA;
' a giver of a horse, the same station with ASWI; a giver of
' a bull, eminent fortune; a giver of a cow, the mansion of
' SU'RYA;

232. ' A giver of a carriage or a bed, an excellent comfort; a giver
' of safety, supreme dominion; a giver of grain, perpetual delight; a
' giver of scriptural knowledge, union with God:

233. ' Among all those gifts, of water, food, kine, land, clothes,
' *tila*, gold, clarified butter, and the rest, a gift of spiritual know-
' ledge is consequently the most important;

234. ' And for whatever purpose a man bestows any gift, for a
' similar purpose he shall receive, with due honour, a similar re-
' ward.

235. ' Both he, who respectfully bestows a present, and he who
' respectfully accepts it, shall go to a seat of bliss; but, if they act
' otherwise, to a region of horror.

236. ' LET not a man be proud of his rigorous devotion; let
' him not, having sacrificed, utter a falsehood; let him not, though
' injured, insult a priest; having made a donation, let him never pro-
' claim it:

237. ' By falsehood, the sacrifice becomes vain ; by pride, the merit
' of devotion is lost ; by insulting priests, life is diminished ; and by
' proclaiming a largess, its fruit is destroyed.

238. ' GIVING no pain to any creature, let him collect virtue by
' degrees, for the sake of acquiring a companion to the next world, as
' the white ant by degrees builds his nest ;

239. ' For, in his passage to the next world, neither his fa-
' ther, nor his mother, nor his wife, nor his son, nor his kinf-
' men, will remain in his company : his virtue alone will adhere
' to him.

240. ' Single is each man born ; single he dies ; single he re-
' ceives the reward of his good, and single the punishment of his
' evil, deeds :

241. ' When he leaves his corse, like a log or a lump of clay, on the
' ground, his kindred retire with averted faces ; but his virtue ac-
' companies his soul.

242. ' Continually, therefore, by degrees let him collect virtue, for
' the sake of securing an inseparable companion ; since with virtue
' for his guide, he will traverse a gloom, how hard to be tra-
' versed !

243. ' A man, habitually virtuous, whose offences have been expiated
' by devotion, is instantly conveyed after death to the higher world,
' with a radiant form and a body of ethereal substance.

244. ' HE,

244. ' HE, who seeks to preserve an exalted rank, must constantly
' form connexions with the highest and best families, but avoid the
' worst and the meanest ;

245. ' Since a priest, who connects himself with the best and highest
' of men, avoiding the lowest and worst, attains eminence ; but sinks,
' by an opposite conduct, to the class of the servile.

246. ' HE, who perseveres in good actions, in subduing his passions,
' in bestowing largesses, in gentleness of manners, who bears hardships
' patiently, who associates not with the malignant, who gives pain to
' no sentient being, obtains final beatitude.

247. ' WOOD, water, roots, fruit, and food placed before him
' without his request, he may accept from all men ; honey also, and
' protection from danger.

248. ' Gold, or other alms, voluntarily brought and presented, but
' unasked and unpromised, BRAHMA' considered as receivable even
' from a finner :

249. ' Of him, who shall disdain to accept such alms, neither will
' the manes eat the funeral oblations for fifteen years, nor will the
' fire convey the burnt sacrifice to the gods.

250. ' A bed, houses, blades of *cus'a*, perfumes, water, flowers,
' jewels, buttermilk, ground rice, fish, new milk, flesh-meat, and
' green vegetables, let him not proudly reject.

251. ' When he wishes to relieve his natural parents or spiritual
' father, his wife or others, whom he is bound to maintain, or when
' he

‘ he is preparing to honour deities or guests, he may receive gifts from
 ‘ any person, but must not gratify himself with such presents :

252. ‘ If his parents, however, be dead, or if he live without them
 ‘ in his own house, let him, when he seeks nourishment for himself,
 ‘ receive presents invariably from good men alone.

253. ‘ A labourer in tillage, a familyfriend, a herdsman, a slave,
 ‘ a barber, a poor stranger offering his humble duty, are men of the
 ‘ servile class, who may eat the food of their superiors :

254. ‘ As the nature of the poor stranger is, as the work is, which
 ‘ he desires to perform, and as he may show most respect *to the master*
 ‘ *of the house*, even thus let him offer his service ;

255. ‘ For he, who describes himself to worthy men in a manner
 ‘ contrary to truth, is the most sinful wretch in this world : he is the
 ‘ worst of thieves, a stealer of minds.

256. ‘ All things have their sense ascertained by speech ; in speech
 ‘ they have their basis ; and from speech they proceed : consequently,
 ‘ a falsifier of speech falsifies every thing.

257. ‘ WHEN he has paid, as the law directs, his debts to the sages,
 ‘ to the manes, and to the gods, *by reading the scripture, begetting*
 ‘ *a son, and performing regular sacrifices*, he may resign all to his son of
 ‘ *mature age*, and reside in his family house, with no employment, but
 ‘ that of an umpire.

258. ‘ Alone, in some solitary place, let him constantly meditate on
 ‘ the divine nature of the soul, for by such meditation he will attain
 ‘ happiness.

259. ‘ THUS

259. ' Thus has been declared the mode, by which a *Bráhmen*,
 ' who keeps house, must continually subsist, together with the rule of
 ' devotion ordained for a pupil returned from his preceptor; a laudable
 ' rule, which increases the best of *the three* qualities.

260. ' A priest, who lives always by these rules, who knows the
 ' ordinances of the *Véda*, who is freed from the bondage of sin, shall be
 ' absorbed in the divine essence.

CHAPTER THE FIFTH.

On Diet, Purification, and Women.

1. ‘ **T**HE sages, having heard those laws delivered for the conduct of housekeepers, thus addressed the highminded BHRĪGU, who proceeded *in a former birth* from the genius of fire.

2. ‘ How, Lord, can death prevail over *Bráhmens*, who know the scriptural ordinances, and perform their duties, as they have been declared?’

3. ‘ Then he, whose disposition was perfect virtue, even BHRĪGU, the son of MENU, thus answered the great *Rīshis*: ‘ Hear, from what sin proceeds the inclination of death, to destroy the chief of the twice-born :

4. ‘ Through a neglect of reading the *Véda*, through a desertion of approved usages, through supine remissness *in performing holy rites*, and through various offences in diet, *the genius of death* becomes eager to destroy them.

5. ‘ Garlick, onions, leeks, and mushrooms (which no twice-born man must eat), and all vegetables raised in dung,

6. ‘ Red

6. ' Red gums or refins, exuding from trees, and juices from
' wounded stems, the fruit *śēlu*, and the thickened milk of a cow
' within ten days after her calving, a priest must avoid with great
' care.

7. ' Ricepudding boiled with *tila*, frumenty, ricemilk, and baked
' bread, which have not been first offered to some deity, fleshmeat
' also, the food of gods, and clarified butter, which have not first been
' touched, while holy texts were recited,

8. ' Fresh milk from a cow, whose ten days are not passed, the milk
' of a camel, or any quadruped with a hoof not cloven, that of an
' ewe, and that of a cow in heat, or whose calf is dead or absent
' from her,

9. ' That of any forest beast, except the buffalo, the milk of a
' woman, and any thing naturally sweet but acidulated, must all be
' carefully shunned :

10. ' But among such acids, buttermilk may be swallowed, and
' every preparation of buttermilk, and all acids extracted from pure
' flowers, roots, or fruit *not cut with iron*.

11. ' Let every twice-born man avoid carnivorous birds, and such
' as live in towns, and quadrupeds with uncloven hoofs, except
' those allowed by the *Vēda*, and the bird called *tittibha* ;

12. ' The sparrow, the water bird *plava*, the phenicopteros, the
' *chacravāca*, the breed of the towncock, the *śārasa*, the *rajjuvāla*,
' the woodpecker, and the parrot, male and female ;

13. ' Birds,

13. ' Birds, that strike with their beaks, webfooted birds, the *cóyashti*,
' those, who wound with strong talons, and those, who dive to devour
' fish : let him avoid meat kept at a slaughter house, and dried meat,

14. ' The heron, the raven, the *c'hanjana*, all amphibious fish-
' eaters, tame hogs, and fish of every sort, *but those expressly permitted.*

15. ' He, who eats the flesh of any animal, is called the eater of
' that animal itself; and a fisheater is an eater of all flesh; from fish,
' therefore, he must diligently abstain :

16. ' Yet the two fish, called *pát'hina* and *róhita*, may be eaten *by*
' *the guests*, when offered at a repast in honour of the gods or the
' manes; and so may the *rájíva*, the *sinhatunda*, and the *śaś'alca* of
' every species.

17. ' Let him not eat the flesh of any solitary animals, nor of un-
' known beasts or birds, though by general words declared eatable,
' nor of any creature with five claws ;

18. ' The hedgehog and porcupine, the lizard *gódhá*, the *gandaca*,
' the tortoise, and the rabbit *or hare*, wise legislators declare lawful
' food among fivetoed animals; and all quadrupeds, camels excepted,
' which have but one row of teeth.

19. ' The twiceborn man, who has intentionally eaten a mush-
' room, the flesh of a tame hog, or a town cock, a leek, or an onion,
' or garlick, is degraded immediately ;

20. ' But having undesignedly tasted either of those six things,
' he must perform the penance *śántapana*, or the *chándráyana*,

‘ which anchorets, practise : for other things he must fast a whole
‘ day.

21. ‘ One of those harsh penances, called *prájápatya*, the twice-
‘ born man must perform annually, to purify him from the unknown
‘ taint of illicit food ; but he must do particular penance for such
‘ food intentionally eaten.

22. ‘ BEASTS and birds of excellent sorts may be slain by *Bráhmens*
‘ for sacrifice, or for the sustenance of those, whom they are bound to
‘ support ; since AGASTYA did this of old.

23. ‘ No doubt, in the primeval sacrifices by holy men, and in
‘ oblations by those of the priestly and military tribes, the flesh of such
‘ beasts and birds, as may be legally eaten, was presented to the deities.

24. ‘ That, which may be eaten or drunk, *when fresh*, without blame,
‘ may be swallowed, if touched with oil, though it has been kept a
‘ whole night ; and so may the remains of clarified butter :

25. ‘ And every mess prepared with barley or wheat, or with dressed
‘ milk, may be eaten by the twiceborn, although not sprinkled with oil.

26. ‘ Thus has the food, allowed or forbidden to a twiceborn man,
‘ been comprehensively mentioned : I will now propound the *special*
‘ rules for eating and for avoiding flesh meat.

27. ‘ He should taste meat, which has been hallowed for a sa-
‘ crifice with appropriated texts, and, *once only*, when a priest shall
‘ desire him, and when he is performing a legal act, or in danger of
‘ losing life.

28. ‘ For

28. ' For the sustenance of the vital spirit, BRAHMA' created all
' this *animal and vegetable system*; and all, that is moveable or im-
' moveable, that spirit devours.

29. ' Things fixed are eaten by creatures with locomotion; toothless
' animals, by animals with teeth; those without hands, by those to
' whom hands were given; and the timid, by the bold.

30. ' He, who eats *according to law*, commits no sin, even though
' every day he taste the flesh of such animals, as may lawfully be
' tasted; since both animals, who may be eaten, and those, who eat
' them, were equally created by BRAHMA'.

31. ' It is delivered as a rule of the gods, that meat must be swal-
' lowed only for the purpose of sacrifice; but it is a rule of giantick
' demons, that it may be swallowed for any other purpose.

32. ' No sin is committed by him, who, having honoured the deities
' and the manes, eats fleshmeat, which he has bought, or which he has
' himself acquired, or which has been given him by another:

33. ' Let no twiceborn man, who knows the law, and is not in
' urgent distress, eat flesh without observing this rule; for he, unable
' to save himself, will be devoured in the next world by those animals,
' whose flesh he has thus illegally swallowed.

34. ' The sin of him, who kills deer for gain, is not so heinous,
' with respect to *the punishment in* another life, as that of him, who
' eats fleshmeat in vain, *or not previously offered as a sacrifice*:

35. ' But

35. ' But the man, who, engaged *in holy rites* according to law,
' refuses to eat it, shall sink in another world, for twenty-one births,
' to the state of a beast.

36. ' Never let a priest eat the flesh of cattle unhallowed with
' *mantras*, but let him eat it, observing the primeval rule, when it
' has been hallowed with those texts of the *Vêda*.

37. ' Should he have an earnest desire to taste flesh meat, he may
' gratify his fancy by forming the image of some beast with clarified
' butter thickened, or he may form it with dough; but never let
' him indulge a wish to kill any beast in vain:

38. ' As many hairs as grow on the beast, so many similar deaths
' shall the slayer of it, for his own satisfaction in this world, endure
' in the next from birth to birth.

39. ' By the selfexisting in person were beasts created for sacrifice;
' and the sacrifice *was ordained* for the increase of this universe: the
' slaughterer therefore, of beasts for sacrifice is in truth no slaugh-
' terer.

40. ' Gramineous plants, cattle, timbertrees, amphibious animals,
' and birds, which have been destroyed for the purpose of sacrifice,
' attain in the next world exalted births.

41. ' On a solemn offering to a guest, at a sacrifice, and in holy
' rites to the manes or to the gods, but on those occasions only, may
' cattle be slain: this law MENU enacted.

42. ' The

42. ' The twiceborn man, who, knowing the meaning and principles
' of the *Véda*, slays cattle on the occasions mentioned, conveys both
' himself and those cattle to the summit of beatitude.

43. ' Let no twiceborn man, whose mind is improved by learning,
' hurt animals without the sanction of scripture, even though in press-
' ing distress, whether he live in his own house, or in that of his
' preceptor, or in a forest.

44. ' That hurt, which the scripture ordains, and which is done in
' this world of moveable and immoveable creatures, he must con-
' sider as no hurt at all; since law shone forth from *the light of the*
' scripture.

45. ' He, who injures animals, that are not injurious, from a wish
' to give himself pleasure, adds nothing to his own happiness, living
' or dead;

46. ' While he, who gives no creature willingly the pain of con-
' finement or death, but seeks the good of all *sentient beings*, enjoys bliss
' without end.

47. ' He, who injures no animated creature, shall attain without
' hardship whatever he thinks of, whatever he strives for, whatever he
' fixes his mind on.

48. ' Fleshmeat cannot be procured without injury to animals, and
' the slaughter of animals obstructs the path to beatitude; from flesh-
' meat, therefore, let man abstain :

49. ' Attentively

49. ‘ Attentively considering the formation of bodies, and the death
 ‘ or confinement of embodied spirits, let him abstain from eating flesh-
 ‘ meat of any kind.

50. ‘ The man, who forsakes not the law, and eats not fleshmeat,
 ‘ like a bloodthirsty demon, shall attain good will in this world, and
 ‘ shall not be afflicted with maladies.

51. ‘ He, who consents to the death of an animal ; he, who kills it ;
 ‘ he, who dissects it ; he, who buys it ; he, who fells it ; he, who dresses
 ‘ it ; he, who serves it up ; and he, who makes it his food ; these are
 ‘ eight principals in the slaughter.

52. ‘ Not a mortal exists more sinful than he, who, without an
 ‘ oblation to the manes or the gods, desires to enlarge his own flesh
 ‘ with the flesh of another creature.

53. ‘ The man, who performs annually, for a hundred years, an
 ‘ *aswamedha*, or *sacrifice of a horse*, and the man, who abstains from
 ‘ fleshmeat, enjoy for their virtue an equal reward.

54. ‘ By subsisting on pure fruit and on roots, and by eating such
 ‘ grains as are eaten by hermits, a man reaps not so high a reward,
 ‘ as by carefully abstaining from animal food.

55. “ Me he (*mán sa*) will devour in the next world, whose
 “ flesh I eat in this life :” *thus should a flesheater speak, and thus*
 ‘ the learned pronounce the true derivation of the word *mánśa*,
 ‘ or flesh.

56. ‘ In

56. ' In lawfully tasting meat, in drinking fermented liquor, in
' careffing women, there is no turpitude ; for to such enjoyments men
' are naturally prone : but a virtuous abstinence from them produces
' a signal compensation.

57. ' Now will I promulgate the rules of purification for the dead,
' and the modes of purifying inanimate things, as the law prescribes
' them for the four classes in due order.

58. ' When a child has teethed, and when, after teething, his head
' has been shorn, and when he has been girt with his thread, and when,
' being full grown, he dies, all his kindred are impure : on the birth
' of a child the law is the same.

59. ' By a dead body, the *sapindas* are rendered impure in law for
' ten days, or until *the fourth day, when* the bones have been gathered
' up, or for three days, or for one day only, *according to the qualities*
' *of the deceased :*

60. ' Now the relation of the *sapindas*, or men connected by the
' funeral cake, ceases with the seventh person, *or in the sixth degree of*
' *ascent or descent*, and that of *samánódacas*, or those connected by an
' equal oblation of water, ends only, when their births and family-
' names are no longer known.

61. ' As this impurity, by reason of a dead kinsman, is ordained for
' *sapindas*, even thus it is ordained on a childbirth, for those who seek
' absolute purity.

62. ' Uncleannefs, on account of the dead, is ordained for all ; but
' on the birth of a child, for the mother and father : impurity, for ten
' days

‘ days after the childbirth, affects the mother only ; but the father, having bathed, becomes pure.

63. ‘ A man, having waisted his manhood, is purified by bathing ; but, after begetting a child on a *parapúrvá*, he must meditate for three days on his impure state.

64. ‘ In one day and night, added to nights three times three, the *sapindas* are purified after touching the corpse ; but the *samánódacas*, in three days.

65. ‘ A pupil in theology, having performed the ceremony of burning his deceased preceptor, becomes pure in ten nights : he is equal, in that case, to the *sapindas*, who carry out the dead.

66. ‘ In a number of nights, equal to the number of months from conception, a woman is purified on a miscarriage ; and a women in her courses is rendered pure by bathing, when her effusion of blood has quite stopped.

67. ‘ For deceased male children, whose heads have not been shorn, purity is legally obtained in one night ; but for those, on whom that ceremony has been performed, a purification of three nights is required.

68. ‘ A dead child under the age of two years, let his kinsmen carry out having decked him *with flowers, and bury him* in pure ground, without collecting his bones *at a future time* :

69. ‘ Let no ceremony with fire be performed for him, nor that of sprinkling water ; but his kindred, having left him like a piece of wood in the forest, shall be unclean for three days.

70. ‘ For

70. ' For a child under the age of three years, the ceremony with
' water shall not be performed by his kindred ; but, if his teeth be com-
' pletely grown, or a name have been given him, they may perform it,
' or not, *at their option*.

71. ' A fellow student in theology being dead, three days of im-
' purity are ordained ; and, on the birth of a *samánódaca*, purification is
' required for three nights.

72. ' The relations of *betrothed but* unmarried damsels, are in three
' days made pure ; and, in as many, are their paternal kinsmen puri-
' fied *after their marriage* :

73. ' Let them eat vegetable food without factitious, *that is, only*
' *with native*, salt ; let them bathe for three days at intervals ; let them
' taste no fleshmeat ; and let them sleep apart on the ground.

74. ' This rule, which ordains impurity by reason of the dead, re-
' lates to the case of one dying near his kinsmen ; but, in the case of
' one dying at a distance, the following rule must be observed by
' those, who share the same cake, and by those, who share only the
' same water :

75. ' The man, who hears that a kinsman is dead in a distant
' country, becomes unclean, if ten days after the death have not
' passed, for the remainder of those ten days only ;

76. ' But, if the ten days have elapsed, he is impure for three nights,
' and, if a year have expired, he is purified merely by touching
' water.

77. ' If, after the lapse of ten days, he know the death of a kinsman,
' or the birth of a male child, he must purify himself by bathing to-
' gether with his clothes.

78. ' Should a child, whose teeth are not grown, or should a *samánó-*
' *daca*, die in a distant region, the kinsman, having bathed with his
' apparel, becomes immediately pure.

79. ' If, during the ten days, another death or another birth in-
' tervene, a *Bráhmen* remains impure, only till those ten days have
' elapsed.

80. ' A spiritual teacher being dead, the sages declare his pupil
' impure for three days; but for a day and a night, if the son or wife
' of the teacher be deceased: such is the sacred ordinance.

81. ' For a reader of the whole *Véda*, who dwells in the same house,
' a man is unclean three nights; but for a maternal uncle, a pupil, an
' officiating priest, and a distant kinsman, only one night winged *with*
' *two days*.

82. ' On the death of a military king, in whose dominion he lives,
' *his impurity lasts* while the sun or the stars give light; but it *lasts* a
' whole day, on the death of a priest, who has not read the whole
' *Véda*, or of a spiritual guide, who has read only part of it, with
' its *Angas*.

83. ' A man of the sacerdotal class becomes pure in ten days; of the
' warlike, in twelve; of the commercial, in five; of the servile, in a
' month.

84. ' Let

84. ' Let no man prolong the days of impurity; let him not intermit the ceremonies to be performed with holy fires: while he performs those rites, even though he be a *śapinda*, he is not impure.

85. ' He, who has touched a *Chandāla*, a woman in her courses, an outcast for deadly sin, a newborn child, a corpse, or one who has touched a corpse, is made pure by bathing.

86. ' If, having sprinkled his mouth with water, and been long intent on his devotion, he see an unclean person, let him repeat, as well as he is able, the solar texts of the *Vēda*, and those, which confer purity.

87. ' Should a *Brāhmen* touch a human bone moist with oil, he is purified by bathing; if it be not oily, by stroking a cow, or by looking at the sun, having sprinkled his mouth duly with water.

88. ' A student in theology shall not perform the ceremony of pouring water at obsequies, until he have completed his course of religious acts; but if, after the completion of them, he thus make an offering of water, he becomes pure in three nights.

89. ' For those, who discharge not their prescribed duties, for those, whose fathers were of a lower class than their mothers, for those, who wear a dress of religion unauthorized by the *Vēda*, and for those, who *illegally* kill themselves, the ceremony of giving funeral water is forbidden by law;

90. ' And for women imitating such hereticks, as wear an unlawful dress, and for such women as live at their own pleasure, or have caused

‘ caused an abortion, or have stricken their husbands, or have drunk
 ‘ any spirituous liquor.

91. ‘ A student violates not the rules of his order, by carrying out,
 ‘ when dead, his own instructor in the *Védas*, who invested him with
 ‘ his holy cord, or his teacher of particular chapters, or his reverend
 ‘ expounder of their meaning, or his father, or his mother.

92. ‘ Let men carry out a dead *Súdra* by the southern gate of the
 ‘ town; but the twiceborn, in due order, by the western, northern,
 ‘ and eastern gates.

93. ‘ No taint of impurity can light on kings or students in theology,
 ‘ while employed in discharging their several duties, nor on those who
 ‘ have actually begun a sacrifice; for the first are then placed on the
 ‘ feat of *INDRA*, and the others are always equally pure with the
 ‘ celestial spirit.

94. ‘ To a king, on the throne of magnanimity, the law ascribes
 ‘ instant purification, because his throne was raised for the protection
 ‘ of his people and the supply of their nourishment:

95. ‘ It is the same with *the kinsmen* of those, who die in battle, after
 ‘ the king has been slain, or have been killed by lightning, or legally
 ‘ by the king himself, or in defence of a cow, or of a priest; and with
 ‘ all those, whom the king wishes to be pure.

96. ‘ The corporeal frame of a king is composed of particles from
 ‘ *SÓMA*, *AGNI*, *SU’RYA*, *PAVANA*, *INDRA*, *CUVE’RA*, *VARUNA*, and
 ‘ *YAMA*, the eight guardian deities of the world:

97. ‘ By

97. ' By those guardians of men in substance is the king pervaded, and he cannot by law be impure; since by those tutelar gods are the purity and impurity of mortals both caused and removed.

98. ' By a soldier, discharging the duties of his class, and slain in the field with brandished weapons, the highest sacrifice is, in that instant, complete; and so is his purification: this law is fixed.

99. ' A priest, having performed funeral rites, is purified by touching water; a soldier, by touching his horse or elephant, or his arms; a husbandman, by touching his goad, or the halter of his cattle; a servant, by touching his staff.

100. ' This mode of purifying *sapindas*, O chief of the twiceborn, has been fully declared to you! learn now the purification required on the death of kinsmen less intimately connected.

101. ' A *Bráhmén*, having carried out a dead *Bráhmén*, though not a *sapinda*, with the affection of a kinsman, or any of those nearly related to him by his mother, becomes pure in three days;

102. ' But, if he taste the food offered by their *sapindas*, he is purified in ten days; and in one day, if he neither partake of their food, nor dwell in the same house.

103. ' If he voluntarily follow a corpse, whether of a paternal kinsman or of another, and afterwards bathe with his apparel, he is made pure by touching fire and tasting clarified butter.

104. ' Let

104. ' Let no kinsman, whilst any of his own class are at hand,
' cause a deceased *Bráhmén* to be carried out by a *Súdra*; since the
' funeral rite, polluted by the touch of a servile man, obstructs his
' passage to heaven.

105. ' Sacred learning, austere devotion, fire, holy aliment, earth,
' the mind, water, smearing with cowdung, air, prescribed acts of re-
' ligion, the sun, and time, are purifiers of imbodyed spirits;

106. ' But of all pure things, purity in acquiring wealth, is pronounc-
' ed the most excellent: since he, who gains wealth with clean hands,
' is truly pure; not he, who is purified merely with earth and water.

107. ' By forgiveness of injuries, the learned are purified; by libera-
' lity, those who have neglected their duty; by pious meditation, those
' who have secret faults; by devout austerity, those who best know
' the *Véda*.

108. ' By water and earth is purified what ought to be made pure;
' a river, by its current; a woman, whose thoughts have been impure,
' by her monthly discharge, and the chief of twiceborn men, by fixing
' his mind wholly on God.

109. ' Bodies are cleansed by water; the mind is purified by truth;
' the vital spirit, by theology and devotion; the understanding, by clear
' knowledge.

110. ' Thus have you heard me declare the precise rules for pu-
' rifying animal bodies: hear now the modes of restoring purity to
' various inanimate things.

111. ' Of

111. ' Of brilliant metals, of gems, and of every thing made with
' stone, the purification, ordained by the wife, is with ashes, water,
' and earth.

112. ' A golden vessel, not smeared, is cleansed with water only ;
' and every thing produced in water, *as coral, shells, or pearls*, and every
' stony substance, and a silver vessel not enchased.

113. ' From a junction of water and fire arose gold and silver ; and
' they two, therefore, are best purified by the elements, whence they
' sprang,

114. ' Vessels of copper, iron, brass, pewter, tin and lead, may be
' fitly cleansed with ashes, with acids, or with water.

115. ' The purification ordained for all sorts of liquids, is by
' stirring them with *cus'a-grafs* ; for cloths folded, by sprinkling
' them with hallowed water ; for wooden utensils, by planing
' them ;

116. ' For the sacrificial pots to hold clarified butter and juice of
' the moonplant, by rubbing them with the hand, and washing them,
' at the time of the sacrifice :

117. ' Implements to wash the rice, to contain the oblations, to cast
' them into the fire, to collect, winnow, and prepare the grain, must be
' purified with water made hot.

118. ' The purification by sprinkling is ordained for grain and cloths
' in large quantities ; but, to purify them in small parcels, *which a man*
' *may easily carry*, they must be washed.

119. ' Leathern

119. ' Leathern utensils, and such as are made with cane, must
' generally be purified in the same manner with cloths; green vege-
' tables, roots, and fruit, in the same manner with grain;

120. ' Silk and woollen stuff, with saline earths; blankets from *Né-*
' *pála*, with pounded *arishtas*, or *nimba* fruit; vests and long drawers,
' with the fruit of the *Bilva*; mantles of *cshumá*, with white mustard-
' seeds.

121. ' Utensils made of shells or of horn, of bones or of ivory, must
' be cleansed by him, who knows the law, as mantles of *cshumá* are
' purified, with the addition of cows' urine or of water.

122. ' Grass, firewood, and straw, are purified by sprinkling them
' with water; a house, by rubbing, brushing, and smearing with cow-
' dung; an earthen pot, by a second burning:

123. ' But an earthen pot, which has been touched with any spiritu-
' ous liquor, with urine, with ordure, with spittle, with pus, or with
' blood, cannot, even by another burning, be rendered pure.

124. ' Land is cleansed by five modes; by sweeping, by smearing
' with cowdung, by sprinkling with cows' urine, by scraping, or by
' letting a cow pass a day and a night on it.

125. ' A thing nibbled by a bird, smelt at by a cow, shaken with a
' foot, sneezed on, or defiled by lice, is purified by earth scattered over it.

126. ' As long as the scent or moisture, caused by any impurity, re-
' main on the thing soiled, so long must earth and water be repeatedly
' used in all purifications of things inanimate.

127. ' The

127. ' The Gods declared three pure things peculiar to *Bráhmens* ;
 ' what has been defiled without their knowledge, what, in cases of
 ' doubt, they sprinkle with water ; and what they commend with
 ' their speech.

128. ' Waters are pure, as far as a cow goes to quench her thirst
 ' in them, if they flow over clean earth, and are sullied by no impu-
 ' rity, but have a good scent, colour, and taste.

129. ' The hand of an artist *employed in his art* is always pure ; so
 ' is every vendible commodity, when exposed to sale ; and that food
 ' is always clean, which a student in theology has begged and receiv-
 ' ed : such is the sacred rule.

130. ' The mouth of a woman is constantly pure ; a bird is pure on
 ' the fall of fruit, which he has pecked ; a sucking animal, on the
 ' flowing of the milk ; a dog, on his catching the deer :

131. ' The flesh of a wild beast slain by dogs, *MENU* pronounces
 ' pure ; and that of an animal slain by other carnivorous creatures, or
 ' by men of the mixed class, who subsist by hunting.

132. ' All the cavities above the navel are pure, and all below it,
 ' unclean ; so are all excretions, that fall from the body.

133. ' Gnats, clear drops from the mouth of a speaker, a sha-
 ' dow, a cow, a horse, sunbeams, dust, earth, air, and fire, must
 ' all be considered as clean, even when they touch an unclean
 ' thing.

134. ' For the cleansing of vessels, which have held ordure or urine,
' earth and water must be used, as long as they are needful; and the
' same for cleansing the twelve corporeal impurities:

135. ' Oily exudations, feminal fluids, blood, dandruff, urine, feces,
' earwax, nailparings, phlegm, tears, concretions on the eyes, and
' sweat, are the twelve impurities of the human frame.

136. ' By the man, who desires purity, one piece of earth *together*
' *with water* must be used for the conduit of urine, three, for that of
' the feces; so, ten for one hand, *that is, the left*; then seven for both:
' *but, if necessary, more must be used.*

137. ' Such is the purification of married men; that of students
' must be double; that of hermits, triple; that of men wholly
' recluse, quadruple.

138. ' Let each man sprinkle the cavities of his body, and taste wa-
' ter in due form, when he has discharged urine or feces; when he is
' going to read the *Véda*; and, invariably, before he takes his food:

139. ' First, let him thrice taste water; then twice let him wipe
' his mouth, if he *be of a twiceborn class, and* desire corporeal purity;
' but a woman or servile man may once respectively make that ablution.

140. ' *Súdras*, engaged in religious duties, must perform each month
' the ceremony of shaving their heads; their food must be the orts of
' *Bráhmens*; and their mode of purification, the same with that of a
' *Vaisya*.

141. ' Such

141. ' Such drops of water, as fall from the mouth on any part of
' the body, render it not unclean; nor hairs of the beard, that enter the
' mouth; nor what adheres awhile to the teeth.

142. ' Drops, which trickle on the feet of a man holding water for
' others, are held equal to waters flowing over pure earth: by them he
' is not defiled.

143. ' He, who carries in any manner an inanimate burden, and is
' touched by any thing impure, is cleansed by making an ablution,
' without laying his burden down.

144. ' Having vomited or been purged, let him bathe and taste
' clarified butter, but, if he have eaten already, let him only perform an
' ablution: for him, who has been connected with a woman, bathing
' is ordained by law.

145. ' Having flumbered, having sneezed, having eaten, having
' spitten, having told untruths, having drunk water, and going to
' read sacred books, let him, though pure, wash his mouth.

146. ' This perfect system of rules for purifying men of all classes,
' and for cleansing inanimate things, has been declared to you: hear
' now the laws concerning women.

147. ' By a girl, or by a young woman, or by a woman advanced
' in years, nothing must be done, even in her own dwelling place, ac-
' cording to her mere pleasure:

148. ' In

148. ' In childhood must a female be dependent on her father; in
 ' youth, on her husband; her lord being dead, on her sons; *if she have*
 ' *no sons, on the near kinsmen of her husband; if he left no kinsmen, on*
 ' *those of her father; if she have no paternal kinsmen, on the sovereign:*
 ' a woman must never seek independence.

149. ' Never let her wish to separate herself from her father, her
 ' husband, or her sons; for, by a separation from them, she exposes
 ' both families to contempt.

150. ' She must always live with a cheerful temper, with good ma-
 ' nagement in the affairs of the house, with great care of the household
 ' furniture, and with a frugal hand in all her expences.

151. ' Him, to whom her father has given her, or her brother with
 ' the paternal assent, let her obsequiously honour, while he lives; and,
 ' when he dies, let her never neglect him.

152. ' The recitation of holy texts, and the sacrifice ordained
 ' by the lord of creatures, are used in marriages for the sake of
 ' procuring good fortune to brides; but the first gift, *or troth*
 ' *plighted*, by the husband is the primary cause *and origin* of marital
 ' dominion.

153. ' When the husband has performed the nuptial rites with texts
 ' of the *Vêda*, he gives bliss continually to his wife here below, both
 ' in season and out of season; and he will give her happiness in the
 ' next world.

154. ' Though

154. ' Though inobservant of approved usages, or enamoured of
' another woman, or devoid of good qualities, yet a husband must
' constantly be revered as a god by a virtuous wife.

155. ' No sacrifice is allowed to women apart from their husbands,
' no religious rite, no fasting: as far only as a wife honours her lord,
' so far she is exalted in heaven.

156. ' A faithful wife, who wishes to attain in heaven the mansion
' of her husband, must do nothing unkind to him, be he living or
' dead:

157. ' Let her emaciate her body, by living voluntarily on pure
' flowers, roots, and fruit; but let her not, when her lord is deceased,
' even pronounce the name of another man.

158. ' Let her continue till death forgiving all injuries, perform-
' ing harsh duties, avoiding every sensual pleasure, and cheerfully
' practising the incomparable rules of virtue, which have been
' followed by such women, as were devoted to one only hus-
' band.

159. ' Many thousands of *Bráhmens*, having avoided sensuality from
' their early youth, and having left no issue in their families, have
' ascended, *nevertheless*, to heaven;

160. ' And, like those abstemious men, a virtuous wife ascends to
' heaven, though she have no child, if, after the decease of her lord,
' she devote herself to pious austerity:

161. ' But

161. ' But a widow, who, from a wish to bear children, flights
 ' her deceased husband *by marrying again*, brings disgrace on her-
 ' self here below, and shall be excluded from the seat of her
 ' lord.

162. ' Issue, begotten on a woman by any other *than her husband*,
 ' is here declared to be no progeny of hers ; no more than a child,
 ' begotten on the wife of another man, *belongs to the begetter* : nor
 ' is a second husband allowed, in any part of this code, to a virtuous
 ' woman.

163. ' She, who neglects her former (*púrva*) lord, though of a lower
 ' class, and takes another (*para*) of a higher, becomes despicable in
 ' this world, and is called *parapúrva*, or *one who had a different husband*
 ' *before*.

164. ' A married woman, who violates the duty, which she owes to
 ' her lord, brings infamy on herself in this life, and, *in the next*, shall
 ' enter the womb of a shakal, or be afflicted with *elephantiasis*, and other
 ' diseases, which punish crimes ;

165. ' While she, who flights not her lord, but keeps her mind,
 ' speech, and body, devoted to him, attains his heavenly mansion, and
 ' by good men is called *śādhvā*, or *virtuous*.

166. ' Yes ; by this course of life it is, that a woman, whose
 ' mind, speech, and body are kept in subjection, acquires high re-
 ' nown in this world, and, in the next, the same abode with her hus-
 ' band.

167. ' A

167. ' A twiceborn man, versed in sacred ordinances, must burn,
' with hallowed fire and fit implements of sacrifice, his wife dying be-
' fore him, if she was of his own class, and lived by these rules :

168. ' Having thus kindled sacred fires, and performed funeral rites
' to his wife, who died before him, he may again marry, and again
' light the nuptial fire.

169. ' Let him not cease to perform day by day according to the
' preceding rules, the five great sacraments ; and, having taken a law-
' ful consort, let him dwell in his house during the second period of his
' life.

100. A certain man, who in his youth had been a soldier, and who had been in the service of the king, was now a poor old man, and he was now in the service of the king.

101. Having been in the service of the king, and having been in the service of the king, he was now a poor old man, and he was now in the service of the king.

102. He was now a poor old man, and he was now in the service of the king. He was now a poor old man, and he was now in the service of the king. He was now a poor old man, and he was now in the service of the king.

103. He was now a poor old man, and he was now in the service of the king. He was now a poor old man, and he was now in the service of the king.

104. He was now a poor old man, and he was now in the service of the king. He was now a poor old man, and he was now in the service of the king.

105. He was now a poor old man, and he was now in the service of the king. He was now a poor old man, and he was now in the service of the king.

106. He was now a poor old man, and he was now in the service of the king. He was now a poor old man, and he was now in the service of the king.

107. He was now a poor old man, and he was now in the service of the king. He was now a poor old man, and he was now in the service of the king.

CHAPTER THE SIXTH.

On Devotion; or on the Third and Fourth Orders.

1. ‘ **H**AVING thus remained in the order of a housekeeper, as
‘ the law ordains, let the twiceborn man, who had before completed
‘ his studentship, dwell in a forest, his faith being firm and his organs
‘ wholly subdued.

2. ‘ When the father of a family, perceives his muscles become
‘ flaccid and his hair gray, and sees the child of his child, let him then
‘ seek refuge in a forest :

3. ‘ Abandoning all food eaten in towns, and all his household
‘ utensils, let him repair to the lonely wood, committing the care of his
‘ wife to her sons, or accompanied by her, *if she chuse to attend him.*

4. ‘ Let him take up his consecrated fire, and all his domestick im-
‘ plements of making oblations to it, and, departing from the town
‘ to the forest, let him dwell in it with complete power over his organs
‘ *of sense and of action.*

5. ‘ With many sorts of pure food, such as holy sages used to
‘ eat, with green herbs, roots, and fruit, let him perform the five

‘ great sacraments before mentioned, introducing them with due ceremonies.

6. ‘ Let him wear a black antelope’s hide, or a vesture of bark; let him bathe evening and morning; let him suffer the hairs of his head, his beard, and his nails to grow continually.

7. ‘ From such food, as himself may eat, let him, to the utmost of his power, make offerings and give alms; and with presents of water, roots, and fruit, let him honour those, who visit his hermitage.

8. ‘ Let him be constantly engaged in reading the *Véda*; patient of all extremities, universally benevolent, with a mind intent on the Supreme Being; a perpetual giver, but no receiver of gifts; with tender affection for all animated bodies.

9. ‘ Let him, as the law directs, make oblations on the hearth with three sacred fires; not omitting in due time the ceremonies to be performed at the conjunction and opposition of the moon.

10. ‘ Let him also perform the sacrifice ordained in honour of the lunar constellations, make the prescribed offering of new grain, and solemnize holy rites every four months, and at the winter and summer solstices.

11. ‘ With pure grains, the food of ancient sages, growing in the vernal and autumnal seasons, and brought home by himself, let him severally make, as the law ordains, the oblations of cakes and boiled grain;

12. ‘ And,

12. ' And, having presented to the gods, that purest oblation, which
' the wild woods produced, let him eat what remains, together with
' some native salt, which himself collected.

13. ' Let him eat green herbs, flowers, roots, and fruit, that grow
' on earth or in water, and the productions of pure trees, and oils
' formed in fruits.

14. ' Honey and fleshmeat he must avoid, and all sorts of mush-
' rooms, the plant *bhústrīna*, that named *fighruca*, and the fruit of the
' *śléśhmātaca*.

15. ' In the month *A'swina* let him cast away the food of fages,
' which he before had laid up, and his vesture, then become old, and
' his herbs, roots, and fruit.

16. ' Let him not eat the produce of ploughed land, though aban-
' doned by any man, *who owns it*, nor fruit and roots produced in a
' town, even though hunger oppresses him.

17. ' He may eat what is mellowed by fire, and he may eat what is
' ripened by time; and either let him break hard fruits with a stone,
' or let his teeth serve as a pestle.

18. ' Either let him pluck enough for a day, or let him gather
' enough for a month; or let him collect enough for six months, or lay
' up enough for a year.

19. ' Having procured food, as he is able, he may eat it at eve or
' in the morning; or he may take only every fourth, or every eighth,
' such regular meal;

20. ' Or,

20. ‘ Or, by the rules of the lunar penance, he may eat a mouthful
‘ less each day of the bright, and a mouthful more each day of the dark,
‘ fortnight ; or he may eat only once, at the close of each fortnight, a
‘ morsel of boiled grains :

21. ‘ Or he may constantly live on flowers and roots, and on fruit
‘ matured by time, which has fallen spontaneously, strictly observing
‘ the laws ordained for hermits.

22. ‘ Let him slide backwards and forwards on the ground ; or let
‘ him stand a whole day on tiptoe ; or let him continue in motion
‘ rising and sitting alternately ; but at sunrise, at noon, and at sunset,
‘ let him go to the waters and bathe.

23. ‘ In the hot season, let him sit exposed to five fires, *four blazing*
‘ *around him with the sun above* ; in the rains, let him stand uncovered,
‘ *without even a mantle*, where the clouds pour *the heaviest* showers ;
‘ in the cold season, let him wear humid vesture ; and let him increase
‘ by degrees the austerity of his devotion :

24. ‘ Performing his ablution at the three *Savanas*, let him give sa-
‘ tisfaction to the manes and to the gods ; and, enduring harsher and
‘ harsher mortifications, let him dry up his bodily frame.

25. ‘ Then, having reposed his holy fires, as the law directs, in his
‘ mind, let him live without external fire, without a mansion, wholly
‘ silent, feeding on roots and fruit ;

26. ‘ Not solicitous for the means of gratification, chaste as a stu-
‘ dent, sleeping on the bare earth, in the haunts of pious hermits,
‘ without one selfish affection, dwelling at the roots of trees.

27. ‘ From

27. ' From devout *Bráhmens* let him receive alms to support life, or
' from other housekeepers of twiceborn classes, who dwell in the forest :

28. ' Or the hermit may bring food from a town, having received
' it in a basket of leaves, in his naked hand, or in a potsherd ; and
' then let him swallow eight mouthfuls.

29. ' These and other rules must a *Bráhmen*, who retires to the
' woods, diligently practise ; and, for the purpose of uniting his soul
' with the divine spirit, let him study the various *upanishads* of scrip-
' ture, or *chapters on the essence and attributes of God*,

30. ' Which have been studied with reverence by anchorites versed
' in theology, and by housekeepers, who dwelt afterwards in forests,
' for the sake of increasing their sublime knowledge and devotion, and
' for the purification of their bodies.

31. ' Or, *if he has any incurable disease*, let him advance in a straight
' path, towards the invincible *north eastern* point, feeding on water and
' air, till his mortal frame totally decay, and his soul become united
' with the Supreme.

32. ' A *Bráhmen*, having shuffled off his body by any of those modes,
' which great sages practised, and becoming void of sorrow and fear,
' rises to exaltation in the divine essence.

33. ' HAVING thus performed religious acts in a forest during the
' third portion of his life, let him become a *Sannyási* for the fourth
' portion of it, abandoning all sensual affections, *and wholly reposing in*
' *the Supreme Spirit* :

34. ' The

34. ' The man, who has passed from order to order, has made obla-
 ' tions to fire *on his respective changes of state*, and has kept his mem-
 ' bers in subjection, but, tired with *so long a course of giving* alms and
 ' *making* offerings, thus reposes himself entirely on God, shall be
 ' raised after death to glory.

35. ' When he has paid his three debts *to the sages, the manes, and*
 ' *the gods*, let him apply his mind to final beatitude; but low shall He
 ' fall, who presumes to seek beatitude, without having discharged those
 ' debts :

36. ' After he has read the *Védas* in the form prescribed by law, has
 ' legally begotten a son, and has performed sacrifices to the best of his
 ' power, he *has paid his three debts*, and may then apply his heart to
 ' eternal bliss ;

37. ' But if a *Bráhmén* have not read the *Véda*, if he have not be-
 ' gotten a son, and if he have not performed sacrifices, yet shall aim at
 ' final beatitude, he shall sink to a place of degradation.

38. ' Having performed the sacrifice of PRAJAPETI, accompanied
 ' with a gift of all his wealth, *and* having repositied in his mind the sa-
 ' crificial fires, a *Bráhmén* may proceed from his house, *that is, from*
 ' *the second order*, or he may proceed even from the first, to the condition
 ' of a *Sannyási*.

39. ' Higher worlds are illuminated with the glory of that man,
 ' who passes from his house into the fourth order, giving exemption
 ' from fear to all animated beings, and pronouncing the *mystick words*
 ' of the *Véda* :

40. ' To

40. ' To the *Bráhmén*, by whom not even the smallest dread has
' been occasioned to sentient creatures, there can be no dread from
' any quarter whatever, when he obtains a release from his mortal
' body.

41. ' Departing from his house, taking with him pure implements,
' *his waterpot and staff*, keeping silence, unallured by desire of the ob-
' jects near him, let him enter into the fourth order.

42. ' Alone let him constantly dwell, for the sake of his own feli-
' city : observing the happiness of a solitary man, who neither forsakes
' nor is forsaken, let him live without a companion.

43. ' Let him have no culinary fire, no domicile ; let him, *when very*
' *hungry*, go to the town for food ; let him patiently bear disease ; let
' his mind be firm ; let him study to know God, and fix his attention
' on God alone.

44. ' An earthen waterpot, the roots of large trees, coarse vesture,
' total solitude, equanimity toward all creatures, these are the cha-
' racteristics of a *Bráhmén* set free.

45. ' Let him not wish for death ; let him not wish for life ; let him
' expect his appointed time, as a hired servant expects his wages.

46. ' Let him advance his foot purified by looking down, *lest he*
' *touch any thing impure* ; let him drink water purified by straining
' with a cloth, *lest he hurt some insect* ; let him, *if he chuse to speak*,
' utter words purified by truth ; let him by all means keep his heart
' purified.

47. ' Let

47. ' Let him bear a reproachful speech with patience ; let him
' speak reproachfully to no man ; let him not, on account of this *frail*
' *and feverish* body, engage in hostility with any one living.

48. ' With an angry man let him not in his turn be angry ; abused,
' let him speak mildly ; nor let him utter a word relating to vain illu-
' fory things and confined within seven gates, *the five organs of sense,*
' *the heart, and the intellect ; or this world, with three above and three*
' *below it.*

49. ' Delighted with meditating on the Supreme Spirit, fitting fixed
' in such meditation, without needing any thing earthly, without one
' sensual desire, without any companion but his own soul, let him live
' in this world seeking the bliss of the next.

50. ' Neither by explaining omens and prodigies, nor by skill in
' astrology and palmistry, nor by casuistry and expositions of holy
' texts, let him at any time gain his daily support.

51. ' Let him not go near a house frequented by hermits, or priests,
' or birds, or dogs, or other beggars.

52. ' His hair, nails, and beard being clipped, bearing with him a
' dish, a staff, and a waterpot, his whole mind being fixed on God,
' let him wander about continually, without giving pain to *animal or*
' *vegetable* beings.

53. ' His dishes must have no fracture, nor must they be made of
' bright metals : the purification ordained for them must be with wa-
' ter alone, like that of the vessels for a sacrifice.

54. ' A

54. ' A gourd, a wooden bowl, an earthen dish, or a basket made
' of reeds, has MENU, son of the Self-existing, declared fit vessels to
' receive the food of *Bráhmens* devoted to God.

55. ' Only once a day let him demand food ; let him not habituate
' him to eat much at a time ; for an anchorite, habituated to eat much,
' becomes inclined to sensual gratifications.

56. ' At the time when the smoke of kitchen fires has ceased, when
' the pestle lies motionless, when the burning charcoal is extinguished,
' when people have eaten and when dishes are removed, *that is, late*
' *in the day*, let the *Sannyási* always beg food.

57. ' For missing it, let him not be sorrowful ; nor for gaining it,
' let him be glad ; let him care only for a sufficiency to support life,
' but let him not be anxious about his utensils.

58. ' Let him constantly disdain to receive food after humble re-
' verence ; since, by receiving it in consequence of an humble saluta-
' tion, a *Sannyási*, though free, becomes a captive.

59. ' By eating little and by sitting in solitary places, let him re-
' strain those organs, which are naturally hurried away by sensual
' desires.

60. ' By the coercion of his members, by the absence of hate and
' affection, and by giving no pain to sentient creatures, he becomes
' fit for immortality.

61. ' Let him reflect on the transmigrations of men caused by their
' sinful deeds, on their downfall into a region of darkness, and their
' torments in the mansion of YAMA ;

62. ' On their separation from those, whom they love, and their
' union with those, whom they hate, on their strength overpowered
' by old age, and their bodies racked with disease ;

63. ' On their agonizing departure from this corporeal frame, their
' formation again in the womb, and the glidings of this vital spirit
' through ten thousand millions of uterine passages ;

64. ' On the misery attached to embodied spirits from a violation of
' their duties, and the unperishable bliss attached to them from their
' abundant performance of all duties, religious and civil.

65. ' Let him reflect also, with exclusive application of mind, on
' the subtil indivisible essence of the supreme spirit, and its complete
' existence in all beings, whether extremely high or extremely low.

66. ' Equalminded towards all creatures, in what order soever *he*
' *may have been* placed, let him fully discharge his duty, though he bear
' not the visible marks of his order : the visible mark, *or mere name*, of
' his order is by no means an effective discharge of his duty ;

67. ' As, although the fruit of the tree *cataca* purify water, yet a
' man cannot purify water by merely pronouncing the name of that
' fruit : *he must throw it, when pounded, into the jar.*

68. ' For

68. ' For the sake of preserving minute animals by night and by
' day, let him walk, though with pain to his own body, perpetually
' looking on the ground.

69. ' Let a *Sannyási*, by way of expiation for *the death* of those
' creatures, which he may have destroyed unknowingly by day or by
' night, make six suppressions of his breath, having duly bathed :

70. ' Even three suppressions of breath made according to the di-
' vine rule, accompanied with the triverbal phrase (*bhurbhuvah swah*)
' and the trilateral syllable (*óm*), may be considered as the highest
' devotion of a *Brábmén* ;

71. ' For as the dross and impurities of metallick ores are consumed
' by fire, thus are the sinful acts of the human organs consumed by
' suppressions of the breath, *while the mystick words, and the measures of*
' *the gáyatrì are revolved in the mind.*

72. ' Let him thus by such suppressions of breath burn away his
' offences ; by reflecting intensely on the steps of ascent to beatitude,
' *let him destroy sin* ; by coercing his members, let him restrain all
' sensual attachments ; by meditating on *the intimate union of his own*
' *soul and the divine essence*, let him extinguish all qualities repugnant
' to the nature of God.

73. ' Let him observe, with extreme application of mind, the pro-
' gress of this internal spirit through various bodies, high and low ;
' *a progress* hard to be discerned by men with unimproved intellects.

74. ' He,

74. ' He, who fully understands the perpetual omnipresence of
' God, can be led no more captive by criminal acts; but he, who
' possesses not that sublime knowledge, shall wander again through the
' world.

75. ' By injuring nothing animated, by subduing all sensual
' appetites, by devout rites ordained in the *Véda*, and by rigorous
' mortifications, men obtain, even in this life, the state of beati-
' tude.

76. ' A mansion with bones for its rafters and beams; with nerves
' and tendons, for cords; with muscles and blood, for mortar; with
' skin, for its outward covering; filled with no sweet perfume, but
' loaded with feces and urine;

77. ' A mansion infested by age and by sorrow, the seat of malady,
' harassed with pains, haunted with the quality of darkness, and in-
' capable of standing long; such a mansion of the vital soul let its oc-
' cupier always cheerfully quit:

78. ' As a tree leaves the bank of a river, *when it falls in*, or as a
' bird leaves the branch of a tree *at his pleasure*, thus he, who leaves
' his body *by necessity or by legal choice*, is delivered from the ravening
' shark, *or crocodile*, of the world.

79. ' Letting his good acts descend (by the law of the *Véda*) to those,
' who love him, and his evil deeds, to those, who hate him, he may
' attain, through devout meditation, the eternal spirit.

80. ' When,

80. ' When, having well considered the nature and consequence of
' sin, he becomes averse from all sensual delights, he then attains bliss
' in this world ; bliss, which shall endure after death.

81. ' Thus, having gradually abandoned all earthly attachments, and
' indifferent to all pairs of opposite things, *as honour and dishonour, and*
' *the like*, he remains absorbed in the divine essence.

82. ' All, that has now been declared, is obtained by pious medita-
' tion ; but no man, who is ignorant of the supreme spirit, can gather
' the fruit of mere ceremonial acts.

83. ' Let him constantly study that part of the *Véda*, which relates
' to sacrifice ; that, which treats of subordinate deities ; that, which
' reveals the nature of the supreme God ; and whatever is declared in
' the *Upanishads*.

84. ' This holy scripture is a sure refuge even for those, who under-
' stand not its meaning, and of course for those, who understand it ;
' this *Véda* is a sure resource for those, who seek bliss above, this *is*
' *a sure resource* for those, who seek bliss eternal.

85. ' That *Bráhmen*, who becomes a *Sannyási* by this discipline,
' announced in due order, shakes off sin here below, and reaches the
' most high.

86. ' This *general* law has been revealed to you for anchorites
' with subdued minds : now learn the particular discipline of those,
' who become recluses according to the *Véda*, that is, *of anchorites in the*
' *first of the four degrees*.

87. ' The

87. ' The student, the married man, the hermit, and the anchorite,
' are the offspring, though in four orders, of married men keeping
' house;

88. ' And all, or even any, of those orders, assumed in their turn,
' according to the sacred ordinances, lead the *Bráhmens*, who acts by
' the preceding rules, to the highest mansion:

89. ' But of all those, the housekeeper, observing the regulations of
' the *Sruti* and *Smṛiti*, may be called the chief; since he supports the
' three other orders.

90. ' As all rivers, female and male, run to their determined place
' in the sea, thus men of all other orders, repair to their fixed place in
' the mansion of the housekeeper.

91. ' By *Bráhmens*, placed in these four orders, a tenfold system of
' duties must ever be sedulously practised:

92. ' Content, returning good for evil, resistance to sensual appe-
' tites, abstinence from illicit gain, purification, coercion of the organs,
' knowledge of scripture, knowledge of the supreme spirit, veracity,
' and freedom from wrath, form their tenfold system of duties.

93. ' Such *Bráhmens*, as attentively read the ten precepts of duty,
' and after reading, carefully practise them, attain the most exalted
' condition.

94. ' A *Bráhmen*, having practised, with organs under command, this
' tenfold system of duty, having heard the *Upanishads* explained, as the
' law

‘ law directs, and who has discharged his three debts, may become an
‘ anchorite, *in the house of his son*, according to the *Véda* ;

95. ‘ And, having abandoned all ceremonial acts, having expiated
‘ all his offences, having obtained a command over his organs, and
‘ having perfectly understood the scripture, he may live at his ease,
‘ while the household affairs are conducted by his son.

96. ‘ When he thus has relinquished all forms, is intent on his own
‘ occupation, and free from every other desire, when, by devoting
‘ himself to God, he has effaced sin, he then attains the supreme path
‘ of glory.

97. ‘ THIS fourfold regulation for the sacerdotal class, has thus been
‘ made known to you ; a just regulation, producing endlets fruit after
‘ death : next, learn the duty of kings, *or the military ways*.’

CHAPTER THE SEVENTH.

On Government, and Publick Law; or on the Military Clafs.

1. ‘ I WILL fully declare the duty of kings; *and ſhow* how a
‘ ruler of men ſhould conduct himſelf, in what manner he was framed,
‘ and how his ultimate reward *may be attained by him*.

2. ‘ By a man of the military clafs, who has received in due form
‘ the inveſtiture, which the *Véda* preſcribes, great care muſt be uſed
‘ to maintain the whole *aſſemblage of laws*.

3. ‘ Since, if the world had no king, it would quake on all ſides
‘ through fear, the ruler of this *univerſe*, therefore, created a king,
‘ for the maintenance of this ſyſtem, both religious and civil,

4. ‘ Forming him of eternal particles drawn from the ſubſtance of
‘ INDRA, PAVANA, YAMA, SU’RYA, of AGNI and VARUNA, of CHAN-
‘ DRA and CUVE’RA :

5. ‘ And ſince a king was compoſed of particles drawn from thoſe
‘ chief guardian deities, he conſequently ſurpaſſes all mortals in glory.

6. ' Like the sun, he burns eyes and hearts; nor can any human
' creature on earth even gaze on him.

7. ' He *is* fire and air; he, both sun and moon; he, the god of
' criminal justice; he, the genius of wealth; he, the regent of waters;
' he, the lord of the firmament.

8. ' A king, even though a child, must not be treated lightly, from
' an idea that he is a mere mortal: no; he is a powerful divinity,
' who appears in a human shape.

9. ' Fire burns only one person, who carelessly goes too near it;
' but the fire of a king in wrath burns a whole family, with all their
' cattle and goods.

10. ' Fully considering the business before him, his own force, and
' the place, and the time, he assumes in succession all sorts of forms,
' for the sake of advancing justice.

11. ' He, sure, must be the perfect essence of majesty, by whose
' favour Abundance rises on her lotos, in whose valour dwells con-
' quest; in whose anger, death.

12. ' He, who shows hatred of the king, through delusion of mind,
' will certainly perish; for speedily will the king apply his heart to
' that man's perdition.

13. ' LET the king prepare a just compensation for the good, and
' a just punishment for the bad: the rule of strict justice let him never
' transgress.

14. ' For

14. 'For his use BRAHMA' formed in the beginning of time the
'genius of punishment, with a body of pure light, his own son, even
'abstract criminal justice, the protector of all created things :

15. 'Through fear of that genius all sentient beings, whether
'fixed or locomotive, are fitted for natural enjoyments and swerve
'not from duty.

16. 'When the king, therefore, has fully considered place and time,
'and his own strength, and the divine ordinance, let him justly inflict
'punishment on all those, who act unjustly.

17. 'Punishment is an active ruler ; he is the true manager of pub-
'lick affairs ; he is the dispenser of laws ; and wise men call him the
'sponsor of all the four orders for the discharge of their several duties.

18. 'Punishment governs all mankind ; punishment alone preserves
'them ; punishment wakes, while their guards are asleep : the wise
'consider punishment as the perfection of justice.

19. 'When rightly and considerately inflicted, it makes all the peo-
'ple happy ; but, inflicted without full consideration, it wholly destroys
'them all.

20. 'If the king were not, without indolence, to punish the guilty,
'the stronger would roast the weaker, like fish, on a spit ; (*or, accord-*
'*ing to one reading*, the stronger would oppress the weaker, like fish in
'their element ;)

21. 'The

21. ' The crow would peck the consecrated offering of rice ; the
' dog would lick the clarified butter ; ownership would remain with
' none ; the lowest would overfet the highest.

22. ' The whole race of men is kept in order by punishment ; for
' a guiltless man is hard to be found : through fear of punishment,
' indeed, this universe is enabled to enjoy its blessings ;

23. ' Deities and demons, heavenly songsters and cruel giants, birds
' and serpents, are made capable, by just correction, of their several
' enjoyments.

24. ' All classes would become corrupt ; all barriers would be de-
' stroyed, there would be total confusion among men, if punishment
' either were not inflicted, or were inflicted unduly :

25. ' But where punishment, with a black hue and a red eye, ad-
' vances to destroy sin, there, if the judge discern well, the people are
' undisturbed.

26. ' Holy sages consider as a fit dispenser of criminal justice, that
' king, who invariably speaks truth, who duly considers all cases, who
' understands the sacred books, who knows the distinctions of virtue,
' pleasure, and riches ;

27. ' Such a king, if he justly inflict legal punishments, greatly in-
' creases those three means of happiness ; but punishment itself shall
' destroy a king, who is crafty, voluptuous, and wrathful :

28. ' Criminal

28. ' Criminal justice, the bright essence of majesty, and hard to be
' supported by men with unimproved minds, eradicates a king, who
' swerves from his duty, together with all his race :

29. ' Punishment shall overtake his castles, his territories, his peo-
' pled land with all fixed and all moveable things, that exist on it :
' even the gods and the sages, *who lose their oblations*, will be afflicted
' and ascend to the sky.

30. ' Just punishment cannot be inflicted by an ignorant and co-
' vetous king, who has no wife and virtuous assistant, whose under-
' standing has not been improved, and whose heart is addicted to
' sensuality :

31. ' By a king, wholly pure, faithful to his promise, observant of
' the scriptures, with good assistants and sound understanding, may
' punishment be justly inflicted.

32. ' Let him in his own domains act with justice, chastise foreign
' foes with rigour, behave without duplicity to his affectionate friends,
' and with lenity to *Bráhmens*.

33. ' Of a king thus disposed, even though he subsist by gleanings, *or*,
' *be his treasure ever so small*, the fame is far spread in the world, like
' a drop of oil in water ;

34. ' But of a king with a contrary disposition, with passions un-
' subdued, *be his riches ever so great*, the fame is contracted in the
' world, like clarified butter in the same element.

35. ' A

35. ' A king was created as the protector of all those classes and orders, who, from the first to the last, discharge their several duties ;

36. ' *And* all, that must be done by him, for the protection of his people, with the assistance of good ministers, I will declare to you, as the law directs, in due order.

37. ' LET the king, having risen at early dawn, respectfully attend to *Bráhmens*, learned in the three *Védas*, and in the science of ethicks ; and by their decision let him abide.

38. ' Constantly must he show respect to *Bráhmens*, who have grown old, *both in years and in piety*, who know the scriptures, who *in body and mind* are pure ; for he, who honours the aged, will perpetually be honoured even by cruel demons :

39. ' From them, though he may have acquired modest behaviour *by his own good sense and by study*, let him continually learn habits of modesty and composure ; since a king, whose demeanour is humble and composed, never perishes.

40. ' While, through want of such humble virtue, many kings have perished with all their possessions, and, through virtue united with modesty, even hermits have obtained kingdoms.

41. ' Through want of that virtuous humility VE'NA was utterly ruined, and so was the great king NAHUSHA, and SUDA'SA, and YAVANA (*or, by a different reading, and SUDA'SA, the son of PIYAVANA*), and SUMAC'HA, and NIMI ;

42. ' But,

42. ‘ But, by virtues with humble behaviour, PRĪT’HU and MENU
 ‘ acquired sovereignty ; CUVE’RA, wealth inexhaustible ; and VISWA’-
 ‘ MITRA, son of GA’DHI, the rank of a priest, *though born in the mili-*
 ‘ *tary class.*

43. ‘ From those, who know the three *Védas*, let him learn the triple
 ‘ doctrine comprised in them, together with the primeval science of
 ‘ criminal justice and sound policy, the system of logick and meta-
 ‘ physics, and sublime theological truth : from the people he must
 ‘ learn the theory of *agriculture, commerce, and other practical arts.*

44. ‘ Day and night must he strenuously exert himself to gain com-
 ‘ plete victory over his own organs ; since that king alone, whose or-
 ‘ gans are completely subdued, can keep his people firm to their duty.

45. ‘ With extreme care let him shun eighteen vices, ten proceeding
 ‘ from love of pleasure, eight springing from wrath, and all ending in
 ‘ misery ;

46. ‘ Since a king, addicted to vices arising from love of pleasure,
 ‘ must lose both his wealth and his virtue, and, addicted to vices arising
 ‘ from anger, he may lose even his life *from the publick resentment.*

47. ‘ Hunting, gaming, sleeping by day, censuring rivals, excess with
 ‘ women, intoxication, singing, instrumental musick, dancing, and use-
 ‘ less travel, are the tenfold set of vices produced by love of pleasure :

48. ‘ Talebearing, violence, insidious wounding, envy, detraction,
 ‘ unjust seizure of property, reviling, and open assault, are in like
 ‘ manner the eightfold set of vices, to which anger gives birth.

49. ‘ A

49. ' A selfish inclination, which all wise men know to be the root
' of those two sets, let him suppress with diligence: both sets of vices
' are constantly produced by it.

50. ' Drinking, dice, women, and hunting, let him consider as the
' four most pernicious in the set, which love of pleasure occasions:

51. ' Battery, defamation, and injury to property, let him always
' consider as the three most heinous in the set, which arises from
' wrath;

52. ' *And* in this sevenfold assemblage of vices, too frequently pre-
' vailing in all kingdoms, let an enlightened prince consider the first,
' and so forth in order, as the most abominable in each set.

53. ' On a comparison between death and vice, the learned pro-
' nounce vice the more dreadful; since, after death, a vicious man sinks
' to regions lower and lower, while a man, free from vice, reaches
' heaven.

54. ' THE king must appoint seven or eight ministers, who must be
' sworn *by touching a sacred image and the like*; men, whose ancestors
' were servants of kings; who are versed in the holy books; who are
' personally brave; who are skilled in the use of weapons; and whose
' lineage is noble.

55. ' Even an act easy in itself is hard sometimes to be performed by
' a single man, especially if he have no assistant near: how much
' harder *must it be to perform alone the business of* a kingdom with
' great revenues!

56. ' Let

56. ' Let him perpetually consult with those ministers on peace and
' war, on his forces, on his revenues, on the protection of his people, and
' on the means of bestowing aptly the wealth, which he has acquired :

57. ' Having ascertained the several opinions of his counsellors, *first*
' apart and *then* collectively, let him do what is most beneficial for
' him in publick affairs.

58. ' To one learned *Bráhmén*, distinguished among them all, let the
' king impart his momentous counsel, relating to six *principal* articles.

59. ' To him, with full confidence, let him intrust all transactions ;
' and with him, having taken his final resolution, let him begin all his
' measures.

60. ' He must likewise appoint other officers ; men of integrity, well
' informed, steady, habituated to gain wealth by honourable means,
' and tried by experience.

61. ' As many officers as the due performance of his business requires,
' not slothful men, *but active*, able, and well instructed, so many, and
' no more, let him appoint.

62. ' Among those let him employ the brave, the skilful, the well-
' born, and the honest, in his mines *of gold or gems*, and in other
' similar works *for amassing wealth* ; but the pusillanimous, in the re-
' cesses of his palace.

63. ' Let him likewise appoint an ambassador versed in all the
' *Sástras*, who understands hints, external signs, and actions, *whose hand*

‘ *and heart are* pure, whose abilities are great, and whose birth was
‘ illustrious :

64. ‘ That royal ambaffador is applauded moft, who is generally
‘ beloved, pure within and without, dextrous in bufinefs, and endued
‘ with an excellent memory ; who knows countries and times, is hand-
‘ fome, intrepid, and eloquent.

65. ‘ The forces of the realm muft be immediately regulated by
‘ the commander in chief ; the actual infliction of punifhment, by the
‘ officers of criminal juftice ; the treafury and the country, by the king
‘ himfelf ; peace and war, by the ambaffador ;

66. ‘ For it is the ambaffador alone, who unites, who alone difjoins
‘ the united ; that is, he tranfacts the bufinefs, by which kingdoms are
‘ at variance or in amity.

67. ‘ In the tranfaction of affairs let the ambaffador comprehend the
‘ vifible figns and hints, and difcover the acts, of the foreign king, by
‘ the figns, hints, and acts of his confidential fervants, and the mea-
‘ fures, which that king wifhes to take, by *the character and conduct of*
‘ his minifters.

68. ‘ Thus, having learned completely *from his ambaffador* all the
‘ defigns of the foreign prince, let the king fo apply his vigilant care,
‘ that he bring no evil on himfelf.

69. ‘ LET him fix his abode in a diftrict containing open cham-
‘ paigns ; abounding with grain ; inhabited chiefly by the virtuous ;
‘ not infected with maladies ; beautiful to the fight ; furrounded by
‘ fubmiffive

‘ submissive *mountaineers, foresters, or other* neighbours; a country, in
 ‘ which the subjects may live at ease.

70. ‘ There let him reside in a capital, having, by way of a fortrefs,
 ‘ a desert *rather more than twenty miles round it*, or a fortrefs of earth,
 ‘ a fortrefs of water, or of trees, a fortrefs of armed men, or a fortrefs
 ‘ of mountains.

71. ‘ With all possible care let him secure a fortrefs of mountains;
 ‘ for, among those just mentioned, a fortrefs of mountains has many
 ‘ transcendent properties.

72. ‘ In the three first of them live wild beasts, vermin, and aqua-
 ‘ tick animals; in the three last, apes, men, and gods, in order as
 ‘ they are named :

73. ‘ As enemies hurt them not in the shelter of their several abodes,
 ‘ thus foes hurt not a king, who has taken refuge in his *durga*, or *place*
 ‘ of difficult access.

74. ‘ One bowman, placed on a wall, is a match in war for a hun-
 ‘ dred enemies; and a hundred, for ten thousand; therefore is a fort
 ‘ recommended.

75. ‘ Let that fort be supplied with weapons, with money, with
 ‘ grain, with beasts, with *Bráhmens*, with artificers, with engines,
 ‘ with grafs, and with water.

76. ‘ In the centre of it let him raise his own palace, well finished
 ‘ in all its parts, completely defended, habitable in every season, bril-
 ‘ liant *with white stucco*, surrounded with water and trees :

77. ‘ Having

77. ' Having prepared it for his mansion, let him chuse a confort
' of the same class with himself, endued with all the bodily marks of
' excellence, born of an exalted race, captivating his heart, adorned
' with beauty and the best qualities.

78. ' He must appoint also a domestick priest, and retain a per-
' former of sacrifices, who may solemnize the religious rites of his
' family, and those performed with three sacred fires.

79. ' Let the king make sacrifices, accompanied with gifts of many
' different kinds; and, for the full discharge of his duty, let him give
' the *Bráhmens* both legal enjoyments and moderate wealth.

80. ' His annual revenue he may receive from his whole dominion
' through his collectors; but let him in this world observe the divine
' ordinances; let him act as a father to his people.

81. ' Here and there he must appoint many sorts of intelligent super-
' visors, who may inspect all the acts of the officers engaged in his business.

82. ' To *Bráhmens* returned from the mansions of their preceptors,
' let him show due respect; for that is called a precious unperishable
' gem, deposited by kings with the sacerdotal class:

83. ' It is a gem, which neither thieves or foes take away; which
' never perishes: kings must, therefore, deposit with *Bráhmens* that
' indestructible jewel of *respectful presents*.

84. ' An oblation in the mouth, or hand, of a *Bráhmen*, is far better
' than offerings to holy fire: it never drops; it never dries; it is never
' consumed.

85. ' A

85. ' A gift to one not a *Bráhmén* produces fruit of a middle stand-
 ' ard; to one, who calls himself a *Bráhmén*, double; to a well read
 ' *Brahmén*, a hundred thousand fold; to one, who has read all the
 ' *Védas*, infinite.

86. ' Of a gift, made with faith in the *Sástra*, to a person highly de-
 ' serving it, the giver shall indubitably gain the fruit after death, be
 ' the present small or great.

87. ' A KING, while he protects his people, being defied by an
 ' enemy of equal, greater, or less force, must by no means turn his
 ' face from battle, but must remember the duty of his military
 ' class:

88. ' Never to recede from combat, to protect the people, and to
 ' honour the priests, is the highest duty of kings and insures their
 ' felicity.

89. ' Those rulers of the earth, who, desirous of defeating each
 ' other, exert their utmost strength in battle, without ever averting
 ' their faces, ascend after death directly to heaven.

90. ' LET no man, engaged in combat, smite his foe with *sharp*
 ' weapons concealed *in wood*, nor with arrows mischievously barbed,
 ' nor with poisoned arrows, nor with darts blazing with fire;

91. ' Nor let him *in a car or on horseback*, strike his enemy alighted
 ' on the ground; nor an effeminate man; nor one, who fues for life
 ' with closed palms; nor one, whose hair is loose *and obstructs his sight*;
 ' nor one, who sits down *fatigued*; nor one, who says, "I am thy
 ' captive;"

92. ' Nor

92. ' Nor one, who sleeps; nor one, who has lost his coat of mail;
 ' nor one, who is naked; nor one, who is disarmed; nor one, who is
 ' a spectator, but not a combatant; nor one, who is fighting with ano-
 ' ther man:

93. ' Calling to mind the duty of honourable men, let him never
 ' slay one, who has broken his weapon; nor one, who is afflicted
 ' *with private sorrow*; nor one, who has been grievously wounded;
 ' nor one, who is terrified; nor one, who turns his back.

94. ' The foldier, indeed, who, fearing and turning his back, hap-
 ' pens to be slain by his foes in an engagement, shall take upon himself
 ' all the sin of his commander, whatever it be;

95. ' And the commander shall take to himself *the fruit* of all the
 ' good conduct, which the foldier, who turns his back and is killed,
 ' had previously stored up for a future life.

96. ' CARS, horses, elephants, umbrellas, habiliments, *except the*
 ' *jewels which may adorn them*, grain, cattle, women, all sorts of li-
 ' quids and metals, except gold and silver, are the lawful prizes of the
 ' man who takes them in war;

97. ' But of those prizes the captors must lay the most valuable
 ' before the king: such is the rule in the *Véda* concerning them; and
 ' the king should distribute among the whole army what has not been
 ' separately taken.

98. ' Thus has been declared the blameless primeval law for mili-
 ' tary men: from this law a king must never depart, when he attacks
 ' his foes in battle.

99. ' What

99. ' What he has not gained *from his foe*, let him strive to gain ;
' what he has acquired, let him preserve with care ; what he preserves,
' let him augment ; and what he has augmented, let him bestow on
' the deserving.

100. ' This is the fourfold rule, which he must consider as the sure
' means of attaining the great object of man, *happiness* ; and let him
' practise it fully without intermission, without indolence :

101. ' What he has not gained, let him strive to gain by military
' strength ; what he has acquired, let him preserve by careful inspec-
' tion ; what he has preserved, let him augment by legal modes of in-
' crease ; and what he has augmented, let him dispense with just liberality.

102. ' Let his troops be constantly exercised ; his prowess, constant-
' ly displayed ; what he ought to secure, constantly secured ; and the
' weakness of his foe, constantly investigated.

103. ' By a king, whose forces are always ready for action, the
' whole world may be kept in awe ; let him then, by a force always
' ready, make all creatures living his own.

104. ' Let him act on all occasions without guile, and never with
' insincerity ; but, keeping himself ever on his guard, let him discover
' the fraud intended by his foe.

105. ' Let not his enemy discern his vulnerable part, but the vul-
' nerable part of his enemy let him well discern : like a tortoise, let
' him draw in his members under *the shell* of concealment, and dili-
' gently let him repair any breach, that may be made in it.

106. ' Like

106. ' Like a heron, let him muse on gaining advantages ; like a
' lion, let him put forth his strength ; like a wolf, let him creep
' towards his prey ; like a hare, let him double to secure his re-
' treat.

107. ' When he thus has prepared himself for conquest, let him re-
' duce all opposers to submission by negotiation and three other expe-
' dients, *namely, presents, division, and force of arms :*

108. ' If they cannot be restrained by the three first methods, then
' let him, firmly but gradually, bring them to subjection by military
' force.

109. ' Among those four modes of obtaining success, the wise prefer
' negotiation and war for the exaltation of kingdoms.

110. ' As a husbandman plucks up weeds and preserves his corn,
' thus let a king destroy his opponents and secure his people.

111. ' That king, who, through weakness of intellect, rashly op-
' presses his people, will, together with his family, be deprived both
' of kingdom and life :

112. ' As, by the loss of bodily sustenance, the lives of animated
' beings are destroyed, thus, by the distress of kingdoms, are destroyed
' even the lives of kings.

113. ' For the sake of protecting his dominions, let the king per-
' petually observe the following rules ; for, by protecting his dominions,
' he will increase his own happiness.

114. ' Let

114. ' Let him place, as the protectors of his realm, a company
' of guards, commanded by an approved officer, over two, three, five,
' or a hundred districts, *according to their extent.*

115. ' Let him appoint a lord of one town with its district, a lord of ten
' towns, a lord of twenty, a lord of a hundred, and a lord of a thousand.

116. ' Let the lord of one town certify of his own accord to the
' lord of ten towns any *robberies, tumults, or other evils*, which arise in
' his district, *and which he cannot suppress*; and the lord of ten, to the
' lord of twenty :

117. ' Then let the lord of twenty towns notify them to the lord of
' a hundred ; and let the lord of a hundred transmit the information
' himself to the lord of a thousand townships.

118. ' Such food, drink, wood, and other articles, as by law should
' be given each day to the king by the inhabitants of the township,
' let the lord of one town receive *as his perquisite* :

119. ' Let the lord of ten towns enjoy the produce of two plough-
' lands, *or as much ground as can be tilled with two ploughs, each drawn*
' *by six bulls* ; the lord of twenty, that of five ploughlands ; the lord of
' a hundred, that of a village or small town ; the lord of a thousand,
' that of a large town.

120. ' The affairs of those *townships*, either jointly or separately
' transacted, let another minister of the king inspect ; who should be
' well affected, and by no means remiss.

121. ' In every large town or city, let him appoint one superintendent of all affairs, elevated in rank, formidable in power, distinguished as a planet among stars :

122. ' Let that governor from time to time survey all the rest in person, and, by means of his emissaries, let him perfectly know their conduct in their several districts.

123. ' Since the servants of the king, whom he has appointed guardians of districts, are generally knaves, who seize what belongs to other men, from such knaves let him defend his people :

124. ' Of such evilminded servants, as wring wealth from subjects attending them on business, let the king confiscate all the possessions, and banish them from his realm.

125. ' For women, employed in the service of the king, and for his whole set of menial servants, let him daily provide a maintenance, in proportion to their station and to their work :

126. ' One *pana* of copper must be given *each day* as wages to the lowest servant, with two cloths *for apparel* every half year, and a *dróna* of grain every month ; to the highest *must be given wages in the ratio of six to one*.

127. ' HAVING ascertained the rates of purchase and sale, *the length of the way*, the expences of food and of condiments, the charges of securing the goods carried, and the neat profits of trade, let the king oblige traders to pay taxes *on their saleable commodities* :

128. ' After

128. ' After full confideration, let a king fo levy thofe taxes continually in his dominions, that both he and the merchant may receive a juft compenfation for their feveral acts.

129. ' As the leech, the fuckling calf, and the bee, take their natural food by little and little, thus muft a king draw from his dominions an annual revenue.

130. ' Of cattle, of gems, of gold and filver, *added each year to the capital flock*, a fiftieth part may be taken by the king; of grain, an eighth part, a fixth, or a twelfth, *according to the difference of the foil, and the labour neceffary to cultivate it*.

131. ' He may alfo take a fixth part of the clear annual increafe of trees, flefhmeat, honey, clarified butter, perfumes, medical fubftances, liquids, flowers, roots, and fruit,

132. ' Of gathered leaves, potherbs, grafs, utenfils made with leather or cane, earthen pots, and all things made of ftone.

133. ' A king, even though dying *with want*, muft not receive any tax from a *Bráhmén* learned in the *Vedas*, nor fuffer fuch a *Bráhmén*, refiding in his territories, to be afflicted with hunger:

134. ' Of that king, in whose dominion a learned *Bráhmén* is afflicted with hunger, the whole kingdom will in a fhort time be afflicted with famine.

135. ' The king, having afcertained his knowledge of fcripture and good morals, muft allot him a fuitable maintenance, and protect him on all fides, as a father protects his own fon:

136. ' By

136. ' By that religious duty, which such a *Brábmén* performs each
' day, under the full protection of the fovereign, the life, wealth, and
' dominions of his protector shall be greatly increafed.

137. ' Let the king order a mere trifle to be paid, in the name of
' the annual tax, by the meaner inhabitants of his realm, who fubfift
' by petty traffick:

138. ' By low handicraftsmen, artificers, and fervile men, who fup-
' port themselves by labour, the king may caufe work to be done for a
' day in each month.

139 ' Let him not cut up his own root *by taking no revenue*, nor
' the root of other men by excefs of covetoufnefs; for, by cutting up
' his own root *and theirs*, he makes both himself and them wretched.

140. ' Let him, confidering the *diverfity of cafes*, be *occasionally*
' fharp and *occasionally* mild, fince a king, duly fharp and mild, be-
' comes univerfally approved.

141. ' When tired of overlooking the affairs of men, let him affign
' the ftation *of fuch an infpector* to a principal minifter, who well
' knows his duty, who is eminently learned, whose paffions are fub-
' dued, and whose birth is exalted.

142. ' Thus muft he protect his people, difcharging, with great
' exertion and without languor, all thofe duties, which the law re-
' quires him to perform.

143. ' That monarch, whose fubjects are carried from his kingdom
' by ruffians, while they call aloud for protection, and he barely looks
' on them with his minifters, is a dead, and not a living, king.

144. ' The

144. ' The highest duty of a military man is the defence of his
' people, and the king, who receives the consideration just mentioned,
' is bound to discharge that duty.

145. ' HAVING risen in the last watch of the night, his body being
' pure, and his mind attentive, having made oblations to fire, and
' shown due respect to the priests, let him enter his hall decently
' splendid :

146. ' Standing there, let him gratify his subjects, before he dismiss
' them, *with kind looks and words* ; and, having dismissed them all, let
' him take secret council with his principal ministers :

147. ' Ascending up the back of a mountain, or going privately to
' a terrace, a bower, a forest, or a lonely place, without listeners, let
' him consult with them unobserved.

148. ' That prince, of whose weighty secrets all assemblies of men
' are ignorant, shall attain dominion over the whole earth, though *at*
' *first* he possess no treasure.

149. ' At the time of consultation, let him remove the stupid, the
' dumb, the blind, and the deaf, talking birds, decrepit old men, wo-
' men, and infidels, the diseased and the maimed ;

150. ' Since those, who are disgraced *in this life by reason of sins*
' *formerly committed*, are apt to betray secret council ; so are talking
' birds ; and so above all are women : them he must, for that reason,
' diligently remove.

151. ' At

151. ‘ At noon or at midnight, when his fatigues have ceased, and
 ‘ his cares are dispersed, let him deliberate, with those ministers or
 ‘ alone, on virtue, lawful pleasure, and wealth ;

152. ‘ On the means of reconciling the acquisition of them, when
 ‘ they oppose each other ; on bestowing his daughters in marriage, and
 ‘ on preserving his sons *from evil by the best education* ;

153. ‘ On sending ambassadors and messengers ; on the probable
 ‘ events of his measures ; on the behaviour *of his women* in the private
 ‘ apartment ; and on the acts even of his own emissaries.

154. ‘ On the whole eightfold business of kings, *relating to the*
 ‘ *revenue, to their expences, to the good or bad conduct of their ministers,*
 ‘ *to legislation in dubious cases, to civil and criminal justice, and to expia-*
 ‘ *tions for crimes,* let him reflect with the greatest attention ; on his
 ‘ five sorts of spies, *or active and artful youths, degraded anchorets, dis-*
 ‘ *treffed husbandmen, decayed merchants, and fictitious penitents, whom he*
 ‘ *must pay and see privately* ; on the good will or enmity *of his neigh-*
 ‘ *bours,* and on the state of the circumjacent countries.

155. ‘ On the conduct of that foreign prince, who has moderate
 ‘ strength *equal to one ordinary foe, but no match for two* ; on the designs
 ‘ of him, who is willing *and able* to be a conqueror ; on the condition
 ‘ of him, who is pacifick, *but a match even for the former unallied* ; and
 ‘ on that of his *natural* enemy, let him sedulously meditate :

156. ‘ Those *four powers,* who, in one word, are the root or *principal*
 ‘ *strength,* of the countries round him, added to eight others, *who are*
 ‘ *called the branches, and are as many degrees of allies and opponents*
 ‘ *variously*

‘ *variously distinguished*, are declared to be twelve chief objects of the
‘ *royal consideration* ;

157. ‘ And five other heads, namely, their ministers, their territories,
‘ their strong holds, their treasuries, and their armies, being applied
‘ to each of *those twelve*, there are in all, *together with them*, seventy-
‘ two *foreign* objects to be carefully investigated.

158. ‘ Let the king consider as hostile to him the power imme-
‘ diately beyond him, and the favourer of that power ; as amicable,
‘ the power next beyond his *natural* foe ; and as neutral, the powers
‘ beyond that *circle* :

159. ‘ All those *powers* let him render subservient to his interest by
‘ mild measures and the other *three* expedients *before mentioned*, either
‘ separate or united, but principally by valour and policy *in arms and*
‘ *negotiation*.

160. ‘ Let him constantly deliberate on the fix measures of a military
‘ prince, *namely*, waging war, and making peace or alliance, march-
‘ ing to battle, and sitting encamped, distributing his forces, and seek-
‘ ing the protection of a more powerful monarch :

161. ‘ Having considered the posture of affairs, let him occasionally
‘ apply to it the measure of sitting inactive, or of marching to action,
‘ of peace, or of war, of dividing his force, or of seeking protection.

162. ‘ A king must know, that there are two sorts of alliance and
‘ war ; two, of remaining encamped, and of marching ; two, likewise,
‘ of dividing his army, and of obtaining protection from another power.

163. ‘ The

163. ' The two forts of alliance, attended with present and future
' advantages, are held to be those, when he acts in conjunction with
' his ally, and when he acts apart from him.

164. ' War is declared to be of two forts; when it is waged for an
' injury to himself, and when it is waged for an injury to his ally, with
' a view to harass the enemy both in season and out of season.

165. ' Marching is of two forts, when destructive acts are done at
' his own pleasure by himself apart, or when his ally attends him.

166. ' The two forts of fitting encamped are, *first*, when he has
' been gradually weakened by the divine power, or by the operation
' of past sins, and, *secondly*, when, to favour his ally, he remains in
' his camp.

167. ' A detachment commanded by the king in person, and a de-
' tachment commanded by a general officer, for the purpose of carry-
' ing some important point, are declared by those, who well know the
' fix measures, to be the two modes of dividing his army.

168. ' The two modes of seeking protection, that his powerful sup-
' port may be proclaimed in all countries, are, *first*, when he wishes
' to be secure from apprehended injury, and, *next*, when his enemies
' actually assail him.

169. ' When the king knows with certainty, that at some future
' time his force will be greatly augmented, and when, at the time pre-
' sent, he sustains little injury, let him then have recourse to peaceful
' measures;

170. ' But,

170. ' But, when he sees all his subjects considerably firm in strength,
' and feels himself highly exalted in power, let him protect his do-
' minions by war.

171. ' When he perfectly knows his own troops to be cheerful and
' well supplied, and those of his enemy quite the reverse, let him
' eagerly march against his foes ;

172. ' But, when he finds himself weak in beasts of burden and in
' troops, let him then sit quiet in camp, using great attention, and
' pacifying his enemy by degrees.

173. ' When a king sees his foes stronger in all respects than him-
' self, let him detach a part of his army, *to keep the enemy amused*, and
' secure his own safety *in an inaccessible place* ;

174. ' But, when he is in all places assailable by the hostile troops,
' let him speedily seek the protection of a just and powerful monarch.

175. ' Him, who can keep in subjection both his own subjects and
' his foes, let him constantly soothe by all sorts of attentive respect, as
' he would honour his father, natural or spiritual :

176. ' But if, even in that situation, he find such protection a
' cause of evil, let him alone, though weak, wage vigorous war with-
' out fear.

177. ' By all these expedients let a politic prince act with such
' wisdom, that neither allies, neutral powers, nor foes, may gain over
' him any great advantage.

178. ‘ Perfectly let him consider the state of his kingdom both
 ‘ actually present and probably future, with the good and bad parts of
 ‘ all his actions :

179. ‘ That king shall never be overcome by his enemies, who fore-
 ‘ sees the good and evil to ensue from his measures ; who, on present
 ‘ occasions, takes his resolution with prudent speed, and who weighs
 ‘ the various events of his past conduct.

180. ‘ Let him so arrange all his affairs, that no ally, neutral prince,
 ‘ or enemy, may obtain any advantage over him : this, in few words,
 ‘ is the sum of political wisdom.

181. ‘ WHEN the king begins his march against the domains of his
 ‘ foe, let him gradually advance, in the following manner, against the
 ‘ hostile metropolis.

182. ‘ Let him set out on his expedition in the fine month of *Már-*
 ‘ *gasirsha*, or about the month of *Phálguna* and *Chaitra*, according to
 ‘ the number of his forces, that he may find autumnal or vernal crops in
 ‘ the country invaded by him :

183. ‘ Even in other seasons, when he has a clear prospect of victory,
 ‘ and when any disaster has befallen his foe, let him advance with the
 ‘ greater part of his army.

184. ‘ Having made a due arrangement of affairs in his own do-
 ‘ minions, and a disposition fit for his enterprise, having provided all
 ‘ things necessary for his continuance in the foreign realm, and hav-
 ‘ ing seen all his spies dispatched with propriety,

185. ‘ Having

185. ' Having secured the three sort of ways, *over water, on plains,*
 ' *and through forests,* and placed his sixfold army, *elephants, cavalry,*
 ' *cars, infantry, officers, and attendants,* in complete military form,
 ' let him proceed by fit journies toward the metropolis of his enemy.

186. ' Let him be much on his guard against every secret friend in
 ' the service of the hostile prince, and against emissaries, who go and
 ' return; for in such friends he may find very dangerous foes.

187. ' On his march let him form his troops, either like a staff, *or in*
 ' *an even column;* like a wain, *or in a wedge with the apex foremost;*
 ' like a boar, *or in a rhomb with the van and rear narrow and the centre*
 ' *broad;* like a *Macara* or *sea monster, that is, in a double triangle with*
 ' *apices joined;* like a needle, *or in a long line;* or like the bird of
 ' *VISHNU, that is, in a rhomboid with the wings far extended:*

188. ' From whatever side he apprehends danger, to that side let
 ' him extend his troops, and let him always conceal himself in the
 ' midst of a squadron formed like a lotos flower.

189. ' Let him cause his generals and the chief commander *under*
 ' *himself* to act in all quarters; and from whatever side he perceives a
 ' design of attacking him, to that side let him turn his front.

190. ' On all sides let him station troops of soldiers, in whom he
 ' confides, distinguished by known *colours and other* marks; who are
 ' excellent both in sustaining a charge and in charging, who are fear-
 ' less and incapable of desertion.

191. ' Let

191. ‘ Let him at his pleasure order a few men to engage in a close
 ‘ phalanx, or a large number of warriors in loose ranks; and, having
 ‘ formed them in *a long line like a needle*, or in *three divisions like a*
 ‘ thunderbolt, let him give orders for battle.

192. ‘ On a plain, let him fight with his armed cars and horses; on
 ‘ watery places, with manned boats and elephants; on ground full of
 ‘ trees and shrubs, with bows; on cleared ground, with swords and
 ‘ targets, and *other* weapons.

193. ‘ Men born in *Curushetra*, near *Indraprestha*, in *Matsya*, or
 ‘ *Virata*, in *Panchala* or *Canyacubja*, and in *Surasena*, in the district
 ‘ of *Mat'hura*, let him cause to engage in the van; and men, *born in*
 ‘ *other countries*, who are tall and light.

194. ‘ Let him, when he has formed his troops in array, encourage
 ‘ them *with short animated speeches*; and then, let him try them com-
 ‘ pletely: let him know likewise, how his men severally exert them-
 ‘ selves, while they charge the foe.

195. ‘ If he block up his enemy, let him sit encamped, and lay
 ‘ waste the hostile country; let him continually spoil the grass, water,
 ‘ and wood of the adverse prince.

196. ‘ Pools, wells, and trenches let him destroy: let him harass
 ‘ the foe by day, and alarm him by night.

197. ‘ Let him secretly bring over to his party all such *leaders* as he
 ‘ can safely bring over; let him be informed of all, that his enemies
 ‘ are

‘ are doing ; and, when a fortunate moment is offered by heaven, let
‘ him give battle, pushing on to conquest and abandoning fear :

198. ‘ Yet he should be more sedulous to reduce his enemy by nego-
‘ tiation, by well applied gifts, and by creating divisions, using either
‘ all or some of those methods, than by hazarding at any time a deci-
‘ sive action,

199. ‘ Since victory or defeat are not surely foreseen on either side,
‘ when two armies engage in the field : let the king then, *if other ex-
‘ pedients prevail*, avoid a pitched battle ;

200. ‘ But, should there be no means of applying the three *before-
‘ mentioned* expedients, let him, after due preparation, fight so valiant-
‘ ly, that his enemy may be totally routed.

201. ‘ *HAVING* conquered a country, let him respect the deities
‘ adored in it, and their virtuous priests ; let him also distribute lar-
‘ gesses *to the people*, and cause a full exemption from terrour to be
‘ loudly proclaimed.

202. ‘ When he has perfectly ascertained the conduct and intentions
‘ of all the vanquished, let him fix in that country a prince of the royal
‘ race, and give him precise instructions.

203. ‘ Let him establish the laws of the conquered nation as declared
‘ *in their books* ; and let him gratify the new prince with gems *and
‘ other precious gifts*.

204. ‘ The

204. ' The seizure of desirable property, though it cause hatred,
' and the donation of it, though it cause love, may be laudable or
' blameable on different occasions :

205. ' All this *conduct of human affairs* is considered as dependent on
' acts ascribed to the deity, and on acts ascribed to men; now the
' operations of the deity cannot be known by any intenseness of
' thought, but those of men may be clearly discovered.

206. ' Or the victor, considering an ally, territory, and wealth as
' the triple fruit of conquest, may form an alliance with the van-
' quished prince, and proceed in union with him, using diligent cir-
' cumsppection.

207. ' He should pay due attention to the prince, who support-
' ed his cause, and to any other prince in the circumjacent re-
' gion, who checked that supporter, so that, both from a well-
' wisher and from an opponent, he may secure the fruit of his ex-
' pedition.

208. ' By gaining wealth and territory a king acquires not so great
' an increase of strength, as by obtaining a firm ally, who, though
' weak, may hereafter be powerful.

209. ' That ally, though feeble, is highly estimable, who knows
' the whole extent of his duties, who gratefully remembers benefits,
' whose people are satisfied, *or, who has a gentle nature*, who loves his
' friend, and perseveres in his good resolutions.

210. ' Him

210. ' Him have the sages declared an enemy hard to be subdued,
' who is eminently learned, of a noble race, personally brave, dextrous
' in management, liberal, grateful, and firm.

211. ' Goodnature, knowledge of mankind, valour, benignity of
' heart, and incessant liberality, are the assemblage of virtues, which
' adorn a neutral prince, *whose amity must be courted*

212. ' Even a salubrious and fertile country, where cattle continually
' increase, let a king abandon without hesitation for the sake of pre-
' serving himself :

213. ' Against misfortune, let him preserve his wealth ; at the ex-
' pence of his wealth, let him preserve his wife ; but let him at all
' events preserve himself even at the hazard of his wife and his riches.

214. ' A wise prince, who finds every sort of calamity rushing
' violently upon him, should have recourse to all just expedients, united
' or separate :

215. ' Let him consider the business to be expedited, the expedients
' collectively, and himself who must apply them ; and, taking refuge
' completely in those three, let him strenuously labour for his own
' prosperity.

216. ' HAVING consulted with his ministers, in the manner before
' prescribed, on all this *mass of publick affairs* ; having used exercise *be-*
' *coming a warrior*, and having bathed *after it*, let the king enter at
' noon his private apartments for the purpose of taking food.

217. ' There

217. ' There let him eat lawful aliment, prepared by servants
' attached to his person, who know the difference of times and are
' incapable of perfidy, after it has been proved innocent *by certain ex-*
' *periments*, and hallowed by texts of the *Vêda* repulsive of poison.

218. ' Together with all his food let him swallow such medical sub-
' stances as resist venom; and let him constantly wear with attention
' such gems, as are known to repel it.

219. ' Let his females, well tried and attentive, their drefs and or-
' naments having been examined, *lest some weapon should be concealed in*
' *them*, do him humble service with fans, water, and perfumes :

220. ' Thus let him take diligent care, when he goes out in a car-
' riage or on horseback, when he lies down to rest, when he sits, when
' he takes food, when he bathes, anoints his body *with odorous essences*,
' and puts on all his habiliments.

221. ' After eating, let him divert himself with his women in the
' recesses of his palace; and, having idled a reasonable time, let him
' again think of publick affairs :

222. ' When he has dressed himself completely, let him once more
' review his armed men, with all their elephants, horses, and cars,
' their accoutrements, and weapons.

223. ' At sunset, having performed his religious duty, let him pri-
' vately, but well armed, in his interior apartment, hear what has
' been done by his reporters and emissaries :

224. ' Then,

224. 'Then, having dismissed those informers, and returning to another secret chamber, let him go, attended by women, to the inmost recess of his mansion for the sake of his evening meal;

225. 'There, having a second time eaten a little, and having been recreated with musical strains, let him take rest early, and rise refreshed from his labour.

226. 'This perfect system of rules let a king, free from illness, observe; but, when really afflicted with disease, he may intrust all these affairs to his officers.'

...the ... of the ... and ... to ...

CHAPTER THE EIGHTH

... On ... and ...

... the ... of the ...

1. A KING, desirous of inspecting judicial proceedings, must enter his court or justice, equipped and seated in his chamber, together with his barons and counsellors, who know how to give him advice.

2. There, under a canopy or standing, holding forth his right arm, without attention to his dress and ornaments, let him examine the ... of the ...

3. Each day let him decide causes one after another, until the ... of the ... and ...

4. Of those cases the only is that on loan for consumption, ... and ...

5. The king, accompanied by his barons and counsellors, must sit in his hall, ... and ...

C. 15

CHAPTER THE EIGHTH.

On Judicature ; and on Law, Private and Criminal.

1. ‘ **A** KING, desirous of inspecting judicial proceedings, must enter
‘ his court of justice, composed and sedate in his demeanour, together
‘ with *Bráhmens* and counsellors, who know how to give him advice :

2. ‘ There, either sitting or standing, holding forth his right arm,
‘ without ostentation in his dress and ornaments, let him examine the
‘ affairs of litigant parties.

3. ‘ Each day let him decide causes, one after another, under the
‘ eighteen *principal* titles of law, by arguments and rules drawn from
‘ local usages, and from written codes :

4. ‘ Of those *titles*, the first is debt, on loans for consumption ; *the*
‘ *second*, deposits, and loans for use ; *the third*, sale without owner-
‘ ship ; *the fourth*, concerns among partners ; *the fifth*, subtraction of
‘ what has been given ;

5. ‘ *The sixth*, nonpayment of wages or hire ; *the seventh*, nonper-
‘ formance of agreements ; *the eighth*, rescission of sale and purchase ;
‘ *the ninth*, disputes between master and servant ;

6. ‘ *The*

6. ‘ *The tenth*, contests on boundaries ; *the eleventh and twelfth*, af-
 ‘ fault and slander ; *the thirteenth*, larceny ; *the fourteenth*, robbery and
 ‘ other violence ; *the fifteenth*, adultery ;

7. ‘ *The sixteenth*, altercation between man and wife, and their fe-
 ‘ veral duties ; *the seventeenth*, the law of inheritance ; *the eighteenth*,
 ‘ gaming with dice and with living creatures : these eighteen titles of
 ‘ law are settled as the groundwork of all judicial procedure in this
 ‘ world.

8. ‘ Among men, who contend for the most part on the titles just
 ‘ mentioned, *and on a few miscellaneous heads not comprised under them*,
 ‘ let the king decide causes justly, observing primeval law ;

9. ‘ But, when he cannot inspect such affairs in person, let him
 ‘ appoint, for the inspection of them, a *Bráhmén* of eminent learn-
 ‘ ing :

10. ‘ Let that chief judge, accompanied by three assessors, fully
 ‘ consider all causes brought before the king, and, having entered the
 ‘ courtroom, let him sit or stand, *but not move backwards and for-*
 ‘ *wards.*

11. ‘ In whatever country three *Bráhméns*, particularly skilled in the
 ‘ three several *Védas*, sit together with the very learned *Bráhmén* ap-
 ‘ pointed by the king, the wise call that *assembly* the court of BRAHMA’
 ‘ *with four faces.*

12. ‘ WHEN justice, having been wounded by iniquity, approaches
 ‘ the court, and the judges extract not the dart, they also shall be
 ‘ wounded by it.

13. ‘ Either

13. ‘ Either the court must not be entered *by judges, parties, and witnesses*, or law and truth must be openly declared : that man is criminal, who either says nothing, or says what is false or unjust.

14. ‘ Where justice is destroyed by iniquity, and truth by false evidence, the judges, who basely look on *without giving redress*, shall also be destroyed.

15. ‘ Justice, being destroyed, will destroy ; being preserved, will preserve : it must never, therefore, be violated. “ Beware, O judge, lest justice, being overturned, overturn *both us and thyself*.”

16. ‘ The divine form of justice is represented as *Vrishā*, or a bull, and the gods consider him, who violates justice, as a *Vrishala*, or one who flays a bull : let the king, therefore, and his judges beware of violating justice.

17. ‘ The only firm friend, who follows men even after death, is justice : all others are extinct with the body.

18. ‘ Of injustice *in decisions*, one quarter falls on the party in the cause ; one quarter, on his witnesses ; one quarter, on all the judges ; and one quarter on the king ;

19. ‘ But where he, who deserves condemnation, shall be condemned, the king is guiltless, and the judges free from blame : an evil deed shall recoil on him, who committed it.

20. ‘ A *Bráhmén* supported only by his class, and one barely reputed a *Bráhmén*, but without performing any sacerdotal acts, may, at the king’s

‘ king’s pleasure, interpret the law to him: *so may the two middle classes*;
 ‘ but a *Súdra*, in no case whatever.

21. ‘ Of that king, who stupidly looks on, while a *Súdra* decides
 ‘ causes, the kingdom itself shall be embarrassed, like a cow in deep
 ‘ mire.

22. ‘ The whole territory, which is inhabited by a number of *Sú-*
 ‘ *dras*, overwhelmed with atheists, and deprived of *Bráhmens*, must
 ‘ speedily perish afflicted with dearth and disease.

23. ‘ LET the king *or his judge*, having seated himself on the bench,
 ‘ his body properly clothed and his mind attentively fixed, begin with
 ‘ doing reverence to the deities, who guard the world; and then let
 ‘ him enter on the trial of causes:

24. ‘ Understanding what is expedient or inexpedient, but consider-
 ‘ ing only what is law or not law, let him examine all disputes be-
 ‘ tween parties, in the order of their several classes.

25. ‘ By external signs let him see through the thoughts of
 ‘ men; by their voice, colour, countenance, limbs, eyes, and ac-
 ‘ tion:

26. ‘ From the limbs, the look, the motion of the body, the gesticu-
 ‘ lation, the speech, the changes of the eye and the face, are discovered
 ‘ the internal workings of the mind.

27. ‘ THE property of a student and of an infant, whether by descent
 ‘ or otherwise, let the king hold in his custody, until the owner shall
 ‘ have

‘ have ended his studentship, or until his infancy shall have ceased in
‘ *his sixteenth year* :

28. ‘ Equal care must be taken of barren women, of women without
‘ sons, *whose husbands have married other wives*, of women without
‘ kindred, or whose husbands are in distant places, of widows true
‘ to their lords, and of women afflicted with illness.

29. ‘ Such kinsmen, as, *by any pretence*, appropriate the fortunes of
‘ women during their lives, a just king must punish with the severity
‘ due to thieves.

30. ‘ Three years let the king detain the property of which no owner
‘ appears, *after a distinct proclamation* : the owner, appearing within the
‘ three years, may take it ; but, after that term, the king may confiscate it.

31. ‘ He, who says “ This is mine,” must be duly examined ; and
‘ if, *before he inspect it*, he declare its form, number, and other circumstances, the owner must have his property ;

32. ‘ But, if he show not at what place and time it was lost, and specify not its colour, shape, and dimensions, he ought to be amerced :

33. ‘ The king may take a sixth part of the property so detained
‘ by him, or a tenth, or a twelfth, remembering the duty of good
‘ kings.

34. ‘ Property lost *by one man*, and found *by another*, let the king secure, by committing it to the care of trustworthy men ; and those,
‘ whom

‘ whom he shall convict of stealing it, let him cause to be trampled on
 ‘ by an elephant.

35. ‘ From the man, who shall say with truth, “ This property,
 “ which has been kept, belongs to me,” the king may take a sixth or
 ‘ twelfth part, *for having secured it* ;

36. ‘ But he, who shall say so falsely, may be fined either an eighth
 ‘ part of his own property, or else in some small proportion to the
 ‘ value of the goods falsely claimed, a just calculation having been
 ‘ made.

37. ‘ A learned *Bráhmén*, having found a treasure formerly hid-
 ‘ den, may take it without any deduction ; since he is the lord of
 ‘ all ;

38. ‘ But of a treasure anciently repositied under ground, which *any*
 ‘ other subject or the king has discovered, the king may lay up half in
 ‘ his treasury, having given half to the *Bráhméns*.

39. ‘ Of old hoards, and precious minerals in the earth, the king is
 ‘ entitled to half by reason of his general protection, and because he is
 ‘ the lord paramount of the soil.

40. ‘ To men of all classes, the king must restore their property,
 ‘ which robbers have seized ; since a king, who takes it for himself,
 ‘ incurs the guilt of a robber.

41. ‘ A king, who knows the revealed law, must enquire into the
 ‘ particular laws of classes, the laws *or usages* of districts, the customs
 ‘ of

‘ of traders, and the rules of certain families, and establish their pecu-
‘ liar laws, *if they be not repugnant to the law of God*;

42. ‘ Since all men, who mind their own customary ways of pro-
‘ ceeding, and are fixed in the discharge of their several duties, become
‘ united by affection with the people at large, even though they dwell
‘ far asunder.

43. ‘ Neither the king himself nor his officers must ever promote
‘ litigation; nor ever neglect a lawsuit instituted by others.

44. ‘ As a hunter traces the lair of a *wounded* beast by the drops of
‘ blood; thus let a king investigate the true point of justice by delibe-
‘ rate arguments:

45. ‘ Let him fully consider the nature of truth, the state of the
‘ case, and his own person; and, next, the witnesses, the place, the
‘ mode, and the time; firmly adhering to all the rules of practice:

46. ‘ What has been practised by good men and by virtuous *Bráb-*
‘ *mens*, if it be not inconsistent with the legal customs of provinces or
‘ districts, of classes and families, let him establish.

47. ‘ *WHEN* a creditor sues before him for the recovery of his right
‘ from a debtor, let him cause the debtor to pay what the creditor shall
‘ prove due.

48. ‘ By whatever lawful means a creditor may have gotten posses-
‘ sion of his own property, let the king ratify such payment by the deb-
‘ tor, though obtained even by compulsory means:

49. ' By the mediation of friends, by suit in court, by artful management, or by distress, a creditor may recover the property lent ;
' and, fifthly, by legal force.

50. ' That creditor, who recovers his right from his debtor, must
' not be rebuked by the king for retaking his own property.

51. ' In a suit for a debt, which the defendant denies, let him award
' payment to the creditor of what, by good evidence, he shall prove
' due, and exact a small fine, *according to the circumstances of the*
' *debtor.*

52. ' On the denial of a debt, which the defendant has in court been
' required to pay, the plaintiff must call a witness who was present at
' the place of the loan, or produce other evidence, *as a note and the*
' *like.*

53. ' The plaintiff, who calls a witness not present at the place,
' *where the contract was made*, or, having knowingly called him, dis-
' claims him as his witness ; or who perceives not, that he asserts con-
' fused and contradictory facts ;

54. ' Or who, having stated what he designs to prove, varies
' afterwards from his case ; or who, being questioned on a fact,
' which he had before admitted, refuses to acknowledge that very
' fact ;

55. ' Or who has conversed with the witnesses in a place unfit for
' such conversation ; or who declines answering a question properly
' put ; or who departs from the court ;

56. ' Or

56. ' Or who, being ordered to speak, stands mute ; or who proves
' not what he has alledged ; or who knows not what is capable or in-
' capable of proof ; *such a plaintiff* shall fail in that suit.

57. ' Him, who has said, " I have witnesses," and, being told to pro-
' duce them, produces them not, the judge must on this account
' declare nonsuited.

58. ' If the plaintiff delay to put in his plaint, he may, *according to the*
' *nature of the case*, be corporally punished or justly amerced ; and, if the
' defendant plead not within three fortnights, he is by law condemned.

59. ' In the double of that sum, which the defendant falsely denies,
' or on which the complainant falsely declares, shall those two men,
' wilfully offending against justice, be fined by the king.

60. ' When a man has been brought into court by a suitor for pro-
' perty, and, being called on to answer, denies the debt, the cause
' should be decided by the *Bráhmén* who represents the king, having
' heard three witnesses at least.

61. ' WHAT sort of witnesses must be produced by creditors *and*
' *others* on the trial of causes, I will comprehensively declare ; and in
' what manner those witnesses must give true evidence.

62. ' Married housekeepers, men with male issue, inhabitants of
' the same district, either of the military, the commercial, or the ser-
' vile class, are competent, when called by the party, to give their
' evidence ; not any persons indiscriminately, except in *such* cases of
' urgency as will soon be mentioned.

63. ' Just

63. ‘ Just and sensible men of all the *four* classes may be witnesses
‘ on trials ; men, who know their whole duty, and are free from
‘ covetousness : but men of an opposite character the judge must
‘ reject.

64. ‘ Those must not be admitted who have a pecuniary interest ;
‘ nor familiar friends ; nor menial servants ; nor enemies ; nor men
‘ formerly perjured ; nor persons grievously diseased ; nor those, who
‘ have committed heinous offences.

65. ‘ The king cannot be made a witness ; nor *cooks, and the like*
‘ mean artificers ; nor publick dancers and singers ; nor a priest of
‘ deep learning in scripture ; nor a student in theology ; nor an an-
‘ choret secluded from all worldly connexions ;

66. ‘ Nor one wholly dependent ; nor one of bad fame ; nor one,
‘ who follows a cruel occupation ; nor one, who acts openly against the
‘ law ; nor a decrepit old man ; nor a child ; nor one man only, *unless*
‘ *he be distinguished for virtue* ; nor a wretch of the lowest mixed class ;
‘ nor one, who has lost the organs of sense ;

67. ‘ Nor one extremely grieved ; nor one intoxicated ; nor a mad-
‘ man ; nor one tormented with hunger or thirst ; nor one oppressed
‘ by fatigue ; nor one excited by lust ; nor one inflamed by wrath ;
‘ nor one who has been convicted of theft.

68. ‘ Women should regularly be witnesses for women ; twiceborn
‘ men, for men alike twiceborn ; good servants and mechanicks, for
‘ servants and mechanicks ; and those of the lowest race, for those of
‘ the lowest ;

69. ‘ But

69. ' But any person whatever, who has positive knowledge of *trans-*
' *actions* in the private apartments of a house, or in a forest, or at a
' time of death, may give evidence between the parties :

70. ' On failure of *witnesses duly qualified*, evidence may in *such cases*
' be given by a woman, by a child, or by an aged man, by a pupil, by
' a kinsman, by a slave, or by a hired servant ;

71. ' Yet of children, of old men, and of the diseased, who are all
' apt to speak untruly, the judge must consider the testimony as weak ;
' and, *much more*, that of men with disordered minds :

72. ' In all cases of violence, of theft and adultery, of defamation
' and assault, he must not examine too strictly the competence of wit-
' nesses.

73. ' If there be contradictory evidence, let the king decide by the
' plurality of credible witnesses ; if equality in number, by superiority
' in virtue ; if parity in virtue, by the testimony of such twiceborn
' men, as have best performed publick duties.

74. ' Evidence of what has been seen, or of what has been heard, *as*
' *slander and the like*, given by those who saw or heard it, is admissible ;
' and a witness, who speaks truth in those cases, neither deviates from
' virtue nor loses his wealth :

75. ' But a witness, who knowingly says any thing, before an assembly
' of good men, different from what he had seen or heard, shall fall
' headlong, after death, into a region of horror, and be debarred from
' heaven.

76. ' When

76. ' When a man sees or hears any thing, without being then called upon to attest it, yet, if he be *afterwards* examined as a witness, he must declare it, exactly as *it was* seen, *and* as *it was* heard.

77. ' One man, untainted with covetousness *and other vices*, may in *some cases* be the sole witness, and will have more weight than many women, because female understandings are apt to waver; or than many other men, who have been tarnished with crimes.

78. ' What witnesses declare naturally, *or without bias*, must be received on trials; but what they improperly say, from some unnatural bent, is inapplicable to the purposes of justice.

79. ' THE witnesses being assembled in the middle of the courtroom, in the presence of the plaintiff and the defendant, let the judge examine them, after having addressed them *all together* in the following manner :

80. " What ye know to have been transacted in the matter before us, between the parties reciprocally, declare at large and with truth; for your evidence in this cause is required."

81. ' A witness, who gives testimony with truth, shall attain exalted seats of beatitude above, and the highest fame here below: such testimony is revered by BRAHMA' himself.

82. ' The witness, who speaks falsely, shall be fast bound *under water*, in the *snaky* cords of VARUNA, and be wholly deprived of power *to escape torment* during a hundred transmigrations: let mankind, therefore, give no false testimony.

83. ' By

83. ' By truth is a witness cleared from sin ; by truth is justice advanced : truth must, therefore, be spoken by witnesses of every class.

84. ' The soul itself is its own witness ; the soul itself is its own refuge : offend not thy conscious soul, the supreme internal witness of men !

85. ' The sinful have said in their hearts : " None sees us." Yes ; the gods distinctly see them ; and so does the spirit within their breasts.

86. ' The guardian deities of the firmament, of the earth, of the waters, of the human heart, of the moon, of the sun, and of fire, of punishment after death, of the winds, of night, of both twilights, and of justice, perfectly know the state of all spirits clothed with bodies.

87. ' In the forenoon let the judge, being purified, severally call on the twiceborn, being purified also, to declare the truth, in the presence of *some image a symbol* of the divinity, and of *Bráhmens*, while the witnesses turn their faces either to the north or to the east.

88. ' To a *Bráhmen* he must begin with saying, " Declare ;" to a *Cshatriya*, with saying " Declare the truth ;" to a *Vaisya*, with comparing perjury to the crime of stealing kine, grain, or gold ; to a *Súdra*, with comparing it *in some or all of the following sentences*, to every crime, that men can commit.

89. " WHATEVER places of torture have been prepared for the slayer of a priest, for the murderer of a woman or of a child, for the injurer
" of

“ of a friend, and for an ungrateful man, those places are ordained for
“ a witness, who gives false evidence.

90. “ The fruit of every virtuous act, which thou hast done, O good
“ man, since thy birth, shall depart from thee to dogs, if thou deviate
“ in speech from the truth.

91. “ O friend to virtue, that supreme spirit, which thou believest
“ one and the same with thyself, resides in thy bosom perpetually,
“ and is an allknowing inspector of thy goodness or of thy wicked-
“ nefs.

92. “ If thou beest not at variance, *by speaking falsely*, with YAMA,
“ or the subduer of all, with VAIVASWATA, or the punisher, with
“ that great divinity, who dwells in thy breast, go not *on a pilgrimage*
“ to the river Gangà, nor to the plains of CURU, *for thou hast no need*
“ *of expiation.*

93. “ Naked and shorn, tormented with hunger and thirst, and de-
“ prived of sight, shall the man, who gives false evidence, go with a
“ potsherd to beg food at the door of his enemy.

94. “ Headlong, in utter darkness, shall the impious wretch tumble
“ into hell, who, being interrogated in a judicial inquiry, answers one
“ question falsely.

95. “ He, who in a court of justice gives an imperfect account of
“ any transaction, or asserts a fact of which he was no eyewitness,
“ shall receive pain *instead of pleasure*, and resemble a man, who eats
“ fish *with eagerness* and swallows the sharp bones.

96. “ The

96. "The gods are acquainted with no better mortal in this world,
 "than the man, of whom the intelligent spirit, which pervades his
 "body, has no distrust, when he prepares to give evidence.

97. "Hear, honest man, from a just enumeration in order, how
 "many kinsmen, in evidence of different sorts, a false witness kills,
 "*or incurs the guilt of killing:*

98. "He kills five by false testimony concerning cattle in general;
 "he kills ten by false testimony concerning kine; he kills a hundred
 "by false evidence concerning horses, and a thousand by false evi-
 "dence concerning the human race:

99. "By speaking falsely in a cause concerning gold, he kills the
 "born and the unborn; by speaking falsely concerning land, he kills
 "every thing animated: beware then of speaking falsely in a cause
 "concerning land!

100. "The sages have held false evidence concerning water, and
 "the possession or enjoyment of women, equal to false evidence con-
 "cerning land; and it is equally criminal in causes concerning *pearls*
 "*and other* precious things formed in water, and concerning all things
 "made of stone.

101. "Marking well all the murders, which are comprehended in
 "the crime of perjury, declare thou the whole truth with precision,
 "*as it was heard, and as it was seen by thee.*"

102. ' *Bráhmens*, who tend herds of cattle, who trade, who practise
 ' mechanical arts, who profess dancing and singing, who are hired

‘ servants or usurers, let the judge exhort and examine as if they were
 ‘ *Súdras*.

103. ‘ IN some cases, a giver of false evidence from a pious motive,
 ‘ even though he know the truth, shall not lose a seat in heaven: such
 ‘ evidence wise men call the speech of the gods.

104. ‘ Whenever the death of a man, *who had not been a grievous*
 ‘ *offender*, either of the fervile, the commercial, the military, or the
 ‘ sacerdotal, class, would be occasioned by true evidence, *from the known*
 ‘ *rigour of the king*, even though the fault arose from inadvertence or
 ‘ *errour*, falsehood may be spoken: it is even preferable to truth.

105. ‘ Such *witnesses* must offer, as oblations to SARASWATI, cakes
 ‘ of rice and milk addressed to the goddess of speech; and thus will
 ‘ they fully expiate that venial sin of benevolent falsehood:

106. ‘ Or such a *witness* may pour clarified butter into the holy fire,
 ‘ according to the sacred rule, hallowing it with the texts called *cúsh-*
 ‘ *mándá*, or with those which relate to VARUNA, beginning with *ud*;
 ‘ or with the three texts appropriated to the water-gods.

107. ‘ A MAN, who labours not under illness, yet comes not to give
 ‘ evidence in cases of loans and the like, within three fortnights *after*
 ‘ *due summons*, shall take upon himself the whole debt, and pay a tenth
 ‘ part of it as a fine *to the king*.

108. ‘ The witness, who has given evidence, and to whom, within
 ‘ seven days after, *a misfortune* happens *from* disease, fire, or the death
 ‘ of a kinsman, shall be condemned to pay the debt and a fine.

109. ‘ IN

109. ' IN cases, where no witnesses can be had, between two parties
' opposing each other, the judge may acquire a knowledge of the
' truth by the oath of the parties; *or* if he cannot *otherwise* perfectly
' ascertain it.

110. ' By the *seven* great *Rishis*, and by the deities themselves, have
' oaths been taken for the purpose of judicial proof; and even VASI-
' SHT'HA, *being accused by* VISWA'MITRA *of murder*, took an oath be-
' fore the *king* SUDA'MAN, son of PIYAVANA.

111. ' Let no man of sense take an oath in vain, *that is, not in a*
' *court of justice*, on a trifling occasion; for the man, who takes an
' oath in vain, shall be punished in this life and in the next:

112. ' To women, however, at a time of dalliance, or on a proposal
' of marriage, in the case of grass or fruit eaten by a cow, of wood
' taken for a sacrifice, or of a promise made for the preservation of a
' *Bráhmén*, it is no deadly sin to take a light oath.

113. ' Let the judge cause a priest to swear by his veracity; a sol-
' dier, by his horse, or elephant, and his weapons; a merchant, by his
' kine, grain, and gold; a mechanick or servile man, by *imprecating*
' *on his own head, if he speak falsely*, all possible crimes;

114. ' Or, *on great occasions*, let him cause the party to hold fire, or
' to dive under water, or severally to touch the heads of his children
' and wife:

115. ' He, whom the blazing fire burns not, whom the water soon
' forces not up, or who meets with no speedy misfortune, must be held
' veracious in his testimony on oath.

116. ' Of

116. ' Of the sage VATSA, whom his younger *half* brother formerly
 ' attacked, *as the son of a servile woman*, the fire, which pervades the
 ' world, burned not even a hair, by reason of his perfect veracity.

117. ' WHENEVER false evidence has been given in any suit, the
 ' king must reverse the judgment; and whatever has been done, must
 ' be considered as undone.

118. ' Evidence, given from covetousness, from distraction of mind,
 ' from terror, from friendship, from lust, from wrath, from igno-
 ' rance, and from inattention, must be held invalid.

119. ' THE distinctions of punishment for a false witness, from either
 ' of those motives, I will now propound fully and in order :

120. ' If he speak falsely through covetousness, he shall be fined a
 ' thousand *panas*; if through distraction of mind, *two hundred and*
 ' *fifty*, or the lowest amercement; if through terror, two mean
 ' amercements; if through friendship, four times the lowest;

121. ' If through lust, ten times the lowest amercement; if through
 ' wrath, three times the next, or *middlemost*; if through ignorance, two
 ' hundred complete; if, through inattention, a hundred only.

122. ' Learned men have specified these punishments, *which were* or-
 ' dained by sage legislators for perjured witnesses, with a view to pre-
 ' vent a failure of justice and to restrain iniquity.

123. ' Let a just prince banish men of the three *lower* classes, if
 ' they give false evidence, having first levied the fine; but a *Bráhmén*
 ' let him only banish.

124. ' MENU,

124. ' MENU, son of the Selfexistent, has named ten places of
' punishment, which are appropriated to the three *lower* classes; but a
' *Bráhmén* must depart from the realm unhurt *in any one of them* :

125. ' The part of generation, the belly, the tongue, the two hands,
' and, fifthly, the two feet, the eye, the nose, both ears, the property,
' and, *in a capital case*, the whole body.

126. ' Let the king, having considered and ascertained the frequency
' of a similar offence, the place and time, the ability of the criminal
' *to pay or suffer*, and the crime itself, cause punishment to fall on
' those alone, who deserve it.

127. ' Unjust punishment destroys reputation during life, and fame
' after death; it even obstructs, in the next life, the path to heaven:
' unjust punishment, therefore, let the king by all means avoid.

128. ' A king, who inflicts punishment on such as deserve it not, and
' inflicts no punishment on such as deserve it, brings infamy on him-
' self, while he lives, and shall sink, when he dies, to a region of tor-
' ment.

129. ' First, let him punish by gentle admonition; afterwards, by
' harsh reproof; thirdly, by deprivation of property; after that, by
' corporal pain :

130. ' But, when even by corporal punishment he cannot restrain
' such offenders, let him apply to them all the four modes with ri-
' gour.

131. ' THOSE

131. ' THOSE names of copper, silver, and gold weights, which are
' commonly used among men, for the purpose of worldly business, I
' will now comprehensively explain.

132. ' The very small mote, which may be discerned in a sunbeam
' passing through a lattice, is the least visible quantity, and men call it
' a *trasarénu* :

133. ' Eight of those *trasarénus* are supposed equal in weight to
' one minute poppyseed ; three of those seeds are equal to one black
' mustardseed ; and three of those last, to a white mustardseed :

134. ' Six white mustardseeds are equal to a middle sized barley-
' corn ; three such barleycorns to one *raṭṭicā*, or seed of the *Gunjā* ;
' five *raṭṭicas* of gold are one *māśha*, and sixteen such *māśhas*, one
' *suverna* ;

135. ' Four *suvernas* make a *pala* ; ten *palas*, a *dharana* ; but two
' *raṭṭicas* of silver, weighed together, are considered as one *māśhaca* ;

136. ' Sixteen of those *māśhacas* are a silver *dharana*, or *purāna* ; but
' a *carśha*, or eighty *raṭṭicas*, of copper, is called a *pana* or *cārśhāpana*.

137. ' Ten *dharanas* of silver are known by the name of a *satamāna* ;
' and the weight of four *suvernas* has also the appellation of a *nishca*.

138. ' Now two hundred and fifty *panas* are declared to be the first or
' lowest amercement ; five hundred of them are considered as the mean ;
' and a thousand, as the highest.

139. ' A DEBT being admitted by the defendant, he must pay five
' in the hundred, *as a fine to the king* ; but, if it be denied *and proved*,
' twice as much : this law was enacted by MENU.

140. ' A LENDER of money may take, in addition to his capital, the
' interest allowed by VASISHT'HA, *that is*, an eightieth part of a hun-
' dred, *or one and a quarter*, by the month, *if he have a pledge* ;

141. ' Or, *if he have no pledge*, he may take two in the hundred by
' *the month*, remembering the duty of good men : for, by *thus* taking
' two in the hundred, he becomes not a finner for gain.

142. ' He may thus take, *in proportion to the risk*, and in the direct
' order of the classes, two in the hundred *from a priest*, three *from a*
' *soldier*, four *from a merchant*, and five *from a mechanick or servile*
' *man*, but never more, as interest by the month.

143. ' If he take a beneficial pledge, *or a pledge to be used for his*
' *profit*, he must have no other interest on the loan ; nor, after a great
' length of time, *or when the profits have amounted to the debt*, can he
' give or sell such a pledge, *though he may assign it in pledge to another*.

144. ' A pledge *to be kept only* must not be used by force, *that is*
' *against consent* : the pawnee so using it must give up his whole interest,
' or must satisfy the pawner, *if it be spoiled or worn out*, by paying him
' the original price of it ; otherwise, he commits a theft of the pawn.

145. ' Neither a pledge *without limit*, nor a deposit, are lost to the
' owner by lapse of time : they are both recoverable, though they have
' long remained with the bailee.

146. ' A

146. ‘ A milch cow, a camel, a riding horse, *a bull or other beast*,
 ‘ which has been sent to be tamed for labour, and other things used
 ‘ with friendly assent, are not lost, *by length of time* to the owner.

147. ‘ *In general*, whatever chattel the owner sees enjoyed by others
 ‘ for ten years, while, though present, he says nothing, that chattel
 ‘ he shall not recover :

148. ‘ If he be neither an idiot, nor an infant under the full age of
 ‘ fifteen years, and if the chattel be adversely possessed in a place,
 ‘ where he may see it, his property in it is extinct by law, and the ad-
 ‘ verse possessor shall keep it.

149. ‘ A pledge, a boundary of land, the property of an infant, a
 ‘ deposit either open or in a chest sealed, female slaves, the wealth of
 ‘ a king, and of a learned *Bráhmén*, are not lost in consequence of ad-
 ‘ verse enjoyment.

150. ‘ The fool, who secretly uses a pledge without, *though not*
 ‘ *against*, the assent of the owner, shall give up half of his interest, as
 ‘ a compensation for such use.

151. ‘ INTEREST on money, received at once, *not month by month*,
 ‘ *or day by day, as it ought*, must never be more than enough to double
 ‘ the debt, *that is, more than the amount of the principal paid at the same*
 ‘ *time* : on grain, on fruit, on wool or hair, on beasts of burden, *lent*
 ‘ *to be paid in the same kind of equal value*, it must not be more than
 ‘ enough to make the debt quintuple.

152. ‘ Stipulated interest beyond the legal rate, and different from
 ‘ the *preceding* rule, is invalid; and the wise call it an usurious way
 ‘ of

‘ *of lending*: the lender is entitled *at most* to five in the hundred.

153. ‘ Let no lender *for a month, or for two or three months, at a certain interest*, receive *such* interest beyond the year; nor any interest, which is unapproved; nor interest upon interest *by previous agreement*; nor monthly interest exceeding in time the amount of the principal; nor interest exacted from a debtor *as the price of the risk, when there is no publick danger or distress*; nor immoderate profits from a pledge to be used by way of interest.

154. ‘ He, who cannot pay the debt *at the fixed time*, and wishes to renew the contract, may renew it in writing, *with the creditor’s assent*, if he pay all the interest then due;

155. ‘ But if, *by some unavoidable accident*, he cannot pay the whole interest, he may insert *as principal* in the renewed contract so much of the interest accrued as he ought to pay.

156. ‘ A lender at interest on *the risk of safe carriage*, who has agreed on the place and time, shall not receive such interest, if *by accident* the goods are not carried to the place, or within the time:

157. ‘ Whatever interest, *or price of the risk*, shall be settled *between the parties*, by men well acquainted with sea voyages or journies by land, with times and with places, such interest shall have legal force.

158. ‘ THE man, who becomes surety for the appearance of a debtor in this world, and produces him not, shall pay the debt out of his own property;

159. ‘ But money, due by a surety, or idly promised to *musicians and*
‘ *actresses*, or lost at play, or due for spirituous liquors, or what re-
‘ mains unpaid of a fine or toll, the son of the *surety or debtor* shall not
‘ *in general* be obliged to pay :

160. ‘ Such is the rule in cases of a surety for appearance or *good*
‘ *behaviour* ; but, if a surety for payment should die, the judge may
‘ compel even his heirs to discharge the debt.

161. ‘ On what account then is it, that, after the death of a surety
‘ other than for payment, the creditor may *in one case* demand the
‘ debt of the *heir*, all the affairs of the deceased being known and
‘ proved ?

162. ‘ If the surety had received money from the debtor, and had
‘ enough to pay the debt, the son of him, who so received it, shall
‘ discharge the debt out of his *inherited* property : this is a sacred or-
‘ dinance.

163. ‘ A contract made by a person intoxicated or insane, or griev-
‘ ously disordered, or wholly dependent, by an infant or a decrepit old
‘ man, or *in the name of another* by a person without authority, is
‘ utterly null.

164. ‘ That plaint can have no effect, though it may be supported
‘ by evidence, which contains a cause of action inconsistent with posi-
‘ tive law or with settled usage.

165. ‘ When the judge discovers a fraudulent pledge or sale, a
‘ fraudulent gift and acceptance, or in whatever other case he detects
‘ fraud, let him annul the whole transaction.

166. ‘ If

166. ' If the debtor be dead, and if the money borrowed was expended for the use of his family, it must be paid by that family, divided or undivided, out of their own estate.

167. ' Should even a slave make a contract *in the name of his absent master* for the behoof of the family, that master, whether in his own country or abroad, shall not rescind it.

168. ' What is given by force *to a man who cannot accept it legally*, what is by force enjoyed, by force caused to be written, and all other things done by force *or against free consent*, MENU has pronounced void.

169. ' Three are troubled by means of others, *namely* witnesses, sureties, and inspectors of causes, and four collect wealth flowly, with benefit to others, a *Bráhmén*, a moneylender, a merchant, and a king.

170. ' Let no king, how indigent soever, take any thing, which ought not to be taken; nor let him, how wealthy soever, decline taking that, which he ought to take, be it ever so small:

171. ' By taking what ought not to be taken, and by refusing what ought to be received, the king betrays his own weakness, and is lost both in this world and in the next;

172. ' But by taking his due, by administering justice, and by protecting the weak, the king augments his own force, and is exalted in the next world and in this.

173. ' Therefore,

173. ' Therefore, let the king, like YAMA, resigning what may be
' pleasing or unpleasing to himself, live by the strict rules of YAMA,
' his anger being repressed, and his organs kept in subjection.

174. ' That evilminded king, who, through infatuation, decides
' causes with injustice, his enemies, *through the disaffection of his people*,
' quickly reduce to a state of dependence ;

175. ' But him, who subduing both lust and wrath, examines causes
' with justice, his people naturally seek, as rivers the ocean.

176. ' THE debtor, who complains before the king, that his creditor
' has recovered the debt by his own legal act, *as beforementioned*, shall
' be compelled by the king to pay a quarter of the sum *as a fine*, and
' the creditor shall be left in possession of his own.

177. ' Even by personal labour shall the debtor pay what is adjudged,
' if he be of the same class with the creditor, or of a lower ; but a
' debtor of a higher class must pay it *according to his income* by little
' and little.

178. ' By this system of rules let the king decide, with equal justice,
' all disputes between men opposing each other, having ascertained the
' truth by evidence or the oaths of the parties.

179. ' A SENSIBLE man should make a deposit with some person
' of high birth, and of good morals, well acquainted with law,
' habitually veracious, having a large family, wealthy and vene-
' rable.

180. ' Whatever

180. ' Whatever thing, and in whatever manner, a person shall deposit in the hands of another, the same thing, and in the same manner, ought to be received back by the owner : as the delivery *was*, so *must* be the receipt.

181. ' He, who restores not to the depositor, on his request, what has been deposited, may first be tried by the judge *in the following manner*, the depositor himself being absent.

182. ' On failure of witnesses, let the judge actually deposit gold, or *precious things*, with the defendant by the artful contrivance of spies, who have passed the age of childhood, and whose persons are engaging :

183. ' Should the defendant restore that deposit in the manner and shape, in which it was bailed *by the spies*, there is nothing in his hands, for which others can justly accuse him ;

184. ' But if he restore not the gold, or *precious things*, as he ought, to those emissaries, let him be apprehended and compelled to pay the value of both deposits : this is a settled rule.

185. ' A deposit, whether sealed up or not, should never be redelivered, while the depositor is alive, to his heir apparent or presumptive : both sorts of deposits, indeed, are extinct, *or cannot be demanded by the heir*, if the depositor die, *in that case* ; but not, unless he die, *for, should the heir apparent keep them, the depositor himself may sue the bailee* :

186. ' But,

186. ‘ But, if a depositary by his own free act shall deliver a deposit
‘ to the heir of a deceased bailor, he must not be harassed *with claims*
‘ *of a similar kind*, either by the king, or by that heir ;

187. ‘ And, *if similar claims be made*, the king must decide the ques-
‘ tions after friendly admonition, *without having recourse to artifice* ;
‘ for, the honest disposition of the man being proved, the judge must
‘ proceed with mildness.

188. ‘ Such is the mode of ascertaining the right in all these cases of
‘ a deposit : in the case of a deposit sealed up, the bailee shall incur no
‘ censure *on the redelivery*, unless he have *altered the seal or* taken out
‘ something.

189. ‘ If a deposit be seized by thieves, *or destroyed by vermine*,
‘ or washed away by water, or consumed by fire, the bailee shall
‘ not be obliged to make it good, unless he took part of it for him-
‘ self.

190. ‘ The defendant, who denies a deposit, and the plaintiff, who
‘ asserts it, let the king try by all sorts of expedients, and by the modes
‘ of ordeal prescribed in the *Véda*.

191. ‘ He, who restores not a thing really deposited, and he, who
‘ demands what he never bailed, shall both, *for a second offence*, be pu-
‘ nished as thieves, *if gold, pearls, or the like be demanded* ; or, *in the*
‘ *case of a trifling demand*, shall pay a fine equal to the value of the
‘ thing claimed :

192. ‘ For

192. ' For the first offence, the king should compel a fraudulent depositary, without any distinction between a deposit under seal or open, to pay a fine equal to its value.

193. ' That man, who, by false pretences, gets into his hands the goods of another, shall, together with his accomplices, be punished by various degrees of whipping or mutilation, or even by death.

194. ' *Regularly*, a deposit should be produced, the same in kind and quantity as it was bailed, by the same and to the same person, by whom and from whom it was received, and before the same company, *who were witnesses to the deposit*: he who produces it in a different manner, ought to be fined;

195. ' But a thing, privately deposited, should be privately restored by and to the person, by and from whom it was received: as the bailment *was*, so *should be* the delivery, *according to a rule in the Vêda*.

196. ' Thus let the king decide causes concerning a deposit, or a friendly loan for use, without showing rigour to the depositary.

197. ' HIM, who sells the property of another man, without the assent of the owner, the judge shall not admit as a competent witness, but shall treat as a thief, who pretends that he has committed no theft:

198. ' If, indeed, he be a near kinsman of the owner, he shall be fined six hundred *panas*; but, if he be neither his kinsman nor a claimant under him, he commits an offence equal to larceny.

199. ' A

199. ' A gift or sale, thus made by any other than the true owner,
' must, by a settled rule, be considered, in judicial proceedings, as
' not made.

200. ' Where occupation *for a time* shall be proved, but no sort of
' title shall appear, *the sale cannot be supported*: title, not occupation, is
' essential to its support; *and this rule also* is fixed.

201. ' He, who has received a chattel, by purchase in open market,
' before a number of men, justly acquires the absolute property, by
' having paid the price of it, *if he can produce the vendor*;

202. ' But, if the vendor be not producible, and the vendee prove
' the public sale, the latter must be dismissed by the king without
' punishment; and the former owner, who lost the chattel, may take
' it back *on paying the vendee half its value*.

203. ' One commodity, mixed with another, shall never be sold as
' *unmixed*; nor a bad commodity, as good; nor less *than agreed on*;
' nor any thing kept at a distance or concealed, *lest some defect in it*
' *should be discovered*.

204. ' If, after one damsel has been shown, another be offered to the
' bridegroom, *who had purchased leave to marry her from her next kins-*
' *man*, he may become the husband of both for the same price: this
' law MENU ordained.

205. ' The kinsman, who gives a damsel in marriage, having first
' openly told her blemishes, whether she be insane, or disordered with
' elephantiasis, or defiled by connexion with a man, shall suffer no pu-
' nishment.

206. ' If

206. ' If an officiating priest, actually engaged in a sacrifice, abandon his work, a share only, in proportion to his work done, shall be given to him by his partners in the business, *out of their common pay* :

207. ' But, if he discontinue his work *without fraud*, after the time of giving the sacrificial fees, he may take his full share, and cause what remains to be performed by another priest.

208. ' Where, on the performance of solemn rites, a specific fee is ordained for each part of them, shall he alone, who performs that part, receive the fee, or shall all the priests take the perquisites jointly ?

209. ' *At some holy rites*, let the reader of the *Yajurveda* take the car, and the *Brahmá*, or superintending priest, the horse; or, *on another occasion*, let the reader of the *Rigvéda* take the horse, and the chanter of the *Sāmaveda* receive the carriage, in which the purchased materials of the sacrifice had been brought.

210. ' *A hundred cows being distributable among sixteen priests*, the four chief, *or first set*, are entitled to *near half, or forty-eight*; the next four, to half of that number; the third set, to a third part of it; and the fourth set, to a quarter :

211. ' According to this rule, *or in proportion to the work*, must allotments of shares be given to men here below, who, *though* in conjunction, perform their several parts of the business.

212. ' SHOULD money or goods be given, *or promised as a gift*, by
' one man to another, who asks it for some religious act, the gift shall
' be void, if that act be not afterwards performed :

213. ' If the money be delivered, and the receiver, through pride or
' avarice, refuse *in that case* to return it, he shall be fined one *suverna*
' by the king, as a punishment for his theft.

214. ' Such, as here declared, is the rule ordained for withdrawing
' what has been given: I will, next, propound the law for nonpay-
' ment of wages.

215. ' THAT hired fervant or workman, who, not from any disorder
' but from indolence, fails to perform his work according to his agree-
' ment, shall be fined eight *rafficas*, and his wages or hire shall not
' be paid.

216. ' But, if he be really ill, and, when restored to health, shall
' perform his work according to his original bargain, he shall receive
' his pay even for a very long time :

217. ' Yet, whether he be sick or well, if the work stipulated be
' not performed *by another for him or by himself*, his whole wages
' are forfeited, though the work want but a little of being com-
' plete.

218. ' This is the general rule concerning work undertaken for
' wages or hire: next, I will fully declare the law concerning such
' men as break their promises.

219. ' THE

219. ' THE man, among the traders and other inhabitants of a town or district, who breaks a promise through avarice, though he had taken an oath to perform it, let the king banish from his realm :

220. ' Or, *according to circumstances*, let the judge, having arrested the promiscbreaker, condemn him to pay six *nishcas*, or four *suvernas*, or one *satamana* of silver, or all three *if he deserve such a fine*.

221. ' Among all citizens and in all classes, let a just king observe this rule for imposing fines on men, who shall break their engagements.

222. ' A MAN, who has bought or sold any thing in this world, *that has a fixed price and is not perishable, as land or metals*, and wishes to rescind the contract, may give or take back such a thing within ten days ;

223. ' But, after ten days, he shall neither give nor take it back : the giver or the taker, *except by consent*, shall be fined by the king six hundred *panas*.

224. ' The king himself shall take a fine of ninety-six *panas* from him, who gives a blemished girl *in marriage for a reward*, without avowing her blemish ;

225. ' But the man, who, through malignity, says of a damsel, that she is no virgin, shall be fined a hundred *panas*, if he cannot prove her defilement.

226. ' The

226. ' The holy nuptial texts are applied solely to virgins, and no
' where on earth to girls, who have lost their virginity; since those
' women are *in general* excluded from legal ceremonies:

227. ' The nuptial texts are a certain rule in regard to wedlock;
' and the bridal contract is known by the learned to be complete *and*
' *irrevocable* on the seventh step of the married pair, hand in hand,
' after those texts have been pronounced.

228. ' By this law, in all business whatever here below, must the
' judge confine, within the path of rectitude, a person inclined to
' rescind his contract of sale and purchase.

229. ' I now will decide exactly, according to principles of law,
' the contests usually arising from the fault of such as own herds of
' cattle, and of such as are hired to keep them.

230. ' By day the blame falls on the herdsman; by night on the
' owner, *if the cattle be fed and kept* in his own house; but, if the
' place of their food and custody be different, the keeper incurs the
' blame.

231. ' That hired servant, whose wages are paid with milk, may,
' with the assent of the owner, milk the best cow out of ten: such are
' the wages of herdsmen, unless they be paid in a different mode.

232. ' The herdsman himself shall make good the loss of a beast,
' which through his want of due care has strayed, has been destroyed
' by reptiles, or killed by dogs, or has died by falling into a pit;

233. ' But

233. ' But he shall not be compelled to make it good, when robbers
' have carried it away, if, after fresh proclamation and pursuit, he
' give notice to his master in a proper place and season.

234. ' When cattle die, let him carry to his master their ears, their
' hides, their tails, the skin below their navels, their tendons, and the
' liquor exuding from their foreheads : let him also point out their limbs.

235. ' A flock of goats or of sheep being attacked by wolves, and
' the keeper not going *to repel the attack*, he shall be responsible for
' every one of them, which a wolf shall violently kill ;

236. ' But, if any one of them, while they graze together near a
' wood, and the shepherd keeps them in order, shall be suddenly
' killed by a wolf springing on it, he shall not in that case be respon-
' sible.

237. ' On all sides of a village or small town, let a space be left for
' pasture, in breadth either four hundred cubits, or three casts of a
' large stick ; and thrice that space round a city or considerable town :

238. ' Within that pasture ground, if cattle do any damage to grain
' in a field uninclosed with a hedge, the king shall not punish the
' herdsman.

239. ' Let the owner of the field enclose it with a hedge *of thorny*
' *plants*, over which a camel could not look ; and let him stop every
' gap, through which a dog or a boar could thrust his head.

240. ' Should cattle, attended by a herdsman, do mischief near a
' highway, in an enclosed field or near the village, he shall be fined a
' hundred

‘ hundred *panas*; but against cattle, which have no keeper, let the
 ‘ owner of the field secure it.

241. ‘ In other fields, the *owner of cattle doing mischief* shall be
 ‘ fined one *pana* and a quarter; but, in all places, the value of the
 ‘ *damaged* grain must be paid: such is the fixed rule concerning a
 ‘ husbandman.

242. ‘ For damage by a cow before ten days have passed since her
 ‘ calving, by bulls kept for impregnation, and by cattle consecrated to
 ‘ the deity, whether attended or unattended, MENU has ordained no
 ‘ fine.

243. ‘ If land be injured, by the fault of the farmer himself, *as if he*
 ‘ *fails to sow it in due time*, he shall be fined ten times as much as the
 ‘ *king's share of the crop, that might otherwise have been raised*; but
 ‘ only five times as much, if it was the fault of his servants without
 ‘ his knowledge.

244. ‘ These rules let a just prince observe in all cases of trans-
 ‘ gression by masters, their cattle, and their herdsmen.

245. ‘ If a contest arise between two villages, or *landholders*, con-
 ‘ cerning a boundary, let the king, or *his judge*, ascertain the limits
 ‘ in the month of *Jyaisht'ha*, when the landmarks are seen more
 ‘ distinctly.

246. ‘ *When boundaries first are established*, let strong trees be planted
 ‘ on them, *Vatas, Pippalas, Palásas, Sálmalis, Sálas, or Tálas*; or such
 ‘ trees (*like the Udumbara or Vajradru*) as abound in milk;

247. ‘ Or

247. ' Or clustering shrubs, or *Vénus* of different sorts, or *Sami*-trees,
' and creepers, or *Saras*, and clumps of *Cubjacas*: and mounds of earth
' should be raised on them; so that the landmark may not easily perish:

248. ' Lakes and wells, pools and streams, ought also to be made on
' the common limits, and temples dedicated to the gods.

249. ' The persons concerned, reflecting on the perpetual trespasses
' committed by men here below through ignorance of boundaries,
' should cause other landmarks to be concealed *under ground*:

250. ' Large pieces of stone, bones, tails of cows, bran, ashes, pot-
' sherds, dried cowdung, bricks and tiles, charcoal, pebbles, and sand,

251. ' And substances of all sorts, which the earth corrodes not
' even in a long time, should be placed *in jars* not appearing *above*
' *ground* on the common boundary.

252. ' By such marks, or by the course of a stream, and long con-
' tinued possession, the judge may ascertain the limit between the lands
' of two parties in litigation:

253. ' Should there be a doubt, even on the inspection of those
' marks, recourse must be had, for the decision of such a contest, to
' the declarations of witnesses.

254. ' Those witnesses must be examined concerning the landmarks,
' in the presence of all the townsmen or villagers, or of both the
' contending parties:

255. ' What

255. ' What the witnesses, thus assembled and interrogated, shall
' positively declare concerning the limits, must be recorded in writing,
' together with all their names.

256. ' Let them, putting earth on their heads, wearing chaplets of
' red flowers and clad in red mantles, be sworn by *the reward of*
' all their several good actions, to give correct evidence concerning
' the metes and bounds.

257. ' Veracious witnesses, who give evidence as the law requires,
' are absolved from their sins; but such, as give it unjustly, shall each
' be fined two hundred *panas*.

258. ' If there be no witnesses, let four men, who dwell on all
' the four sides of the two villages, make a decision concerning the
' boundary, being duly prepared, *like the witnesses*, in the presence
' of the king.

259. ' If there be no such neighbours on all sides, nor any men,
' whose ancestors had lived there since the villages were built, nor
' other inhabitants of towns, who can give evidence on the limits,
' the judge must examine the following men, who inhabit the
' woods;

260. ' Hunters, fowlers, herdsmen, fishers, diggers for roots, catchers
' of snakes, gleaners, and other foresters:

261. ' According to their declaration, when they are duly examined,
' let the king with precision order landmarks to be fixed on the
' boundary line between the two villages.

262. ' As

262. ' As to the bounds of arable fields, wells or pools, gardens and
' houses, the testimony of next neighbours on every side must be con-
' sidered as the best means of decision :

263. ' Should the neighbours say any thing untrue, when two men
' dispute about a landmark, the king shall make each of those wit-
' nesses pay the middlemost of the three usual amercements.

264. ' He, who, by means of intimidation, shall possess himself of a
' house, a pool, a field, or a garden, shall be fined five hundred *panas* ;
' but only two hundred, if he trespassed through ignorance *of the right*.

265. ' If the boundary cannot be *otherwise* ascertained, let the king,
' knowing what is just, *that is, without partiality, and* consulting the
' future benefit of both parties, mark a boundline between their lands:
' this is a settled law.

266. ' Thus has the rule been propounded for decisions concerning land-
' marks : I, next, will declare the law concerning defamatory words.

267. ' A SOLDIER, defaming a priest, shall be fined a hundred *panas* ;
' a merchant, *thus offending*, an hundred and fifty, or two hundred :
' but, *for such an offence*, a mechanick or servile man shall be whipped.

268. ' A priest shall be fined five hundred, if he slander a soldier ;
' twenty-five, if a merchant ; and twelve, if he slander a man of the
' servile class.

269. ' For abusing one of the same class, a twiceborn man shall
' be fined only twelve ; but for ribaldry not to be uttered, even that
' *and every fine* shall be doubled.

270. ' A onceborn man, who insults the twiceborn with gross invectives, ought to have his tongue flit ; for he sprang from the lowest part of BRAHMA' :

271. ' If he mention their names and classes with contumely, *as if he say* " Ob ! DE'VADATTA, *thou refuse of* Bráhmens," an iron stile, ten fingers long, shall be thrust redhot into his mouth.

272. ' Should he, through pride, give instruction to priests concerning their duty, let the king order some hot oil to be dropped into his mouth and his ear.

273. ' He, who falsely denies, through insolence, the sacred knowledge, the country, the class, or the corporeal investiture *of a man equal in rank*, shall be compelled to pay a fine of two hundred *panas*.

274. ' If a man call another blind with one eye, or lame, or defective in any similar way, he shall pay the small fine of one *pana*, even though he speak truth.

275. ' He shall be fined a hundred, who defames his mother, his father, his wife, his brother, his son, or his preceptor ; and he, who gives not his preceptor the way.

276. ' For *mutual* abuse by a priest and a soldier, this fine must be imposed by a learned king ; the lowest amercement on the priest, and the middlemost on the soldier.

277. ' Such exactly, *as before mentioned*, must be the punishment of a merchant and a mechanick, in respect of their several classes, except the flitting of the tongue : this is a fixed rule of punishment.

278. ' THUS

278. ' Thus fully has the law been declared for the punishment of
' defamatory speech: I will, next, propound the established law con-
' cerning assault and battery.

279. ' With whatever member a lowborn man shall assault or
' hurt a superiour, even that member of his must be slit, *or cut*
' *more or less in proportion to the injury*: this is an ordinance of
' MENU.

280. ' He, who raises his hand or a staff against another, shall have
' his hand cut; and he, who kicks another in wrath, shall have an
' incision made in his foot.

281. ' A man of the lowest class, who shall insolently place himself
' on the same seat with one of the highest, shall either be banished
' with a mark on his hinder parts, or the king shall cause a gash to be
' made on his buttock:

282. ' Should he spit on him through pride, the king shall order
' both of his lips to be gashed; should he urine on him, his penis;
' should he break wind against him, his anus.

283. ' If he seize the *Brábmén* by the locks, or by the feet, or by the
' beard, or by the throat, or by the scrotum, let the king without hesi-
' tation cause incisions to be made in his hands.

284. ' If any man scratch the skin *of his equal in class*, or fetch
' blood *from him*, he shall be fined a hundred *panas*; if he wound
' a muscle, six *nishcas*: but, if he break a bone, let him be instantly
' banished.

285. ' ACCORDING

285. ' ACCORDING to the use and value of all great trees, must a
' fine be set for injuring them: this is an established rule.

286. ' IF a blow, attended with much pain, be given either to hu-
' man creatures or cattle, the king shall inflict on the striker a punish-
' ment as heavy as the presumed suffering.

287. ' IN all cases of hurting a limb, wounding, or fetching blood,
' the assailant shall pay the expence of a perfect cure; or, *on his failure*,
' both full damages and a fine to the same amount.

288. ' HE, who injures the goods of another, whether acquainted
' or unacquainted with the owner of them, shall give satisfaction to the
' owner, and pay a fine to the king equal to the damage.

289. ' If injury be done to leather or to leathern bags, or to utensils
' made of wood or clay, the fine shall be five times their value.

290. ' THE wife reckon ten occasions, in regard to a carriage, its
' driver, and its owner, on which the fine is remitted; on other occa-
' sions a fine is ordained by law:

291. ' The noscord or bridle being cut, *by some accident without*
' *negligence*, or the yoke being snapped, on a sudden overturn, or run-
' ning against any thing *without fault*, the axle being broken, or the
' wheel cracked;

292. ' On the breaking of the thongs, of the halter, or of the reins,
' and when the driver has called aloud to make way, *on these occasions*
' has MENU declared that no fine shall be set:

293. ' But,

293. ' But, where a carriage has been overturned by the unskilfulness of the driver, there, in the case of any hurt, the master shall be fined two hundred *panas*.

294. ' If the driver be skilful, *but negligent*, the driver alone shall be fined ; and those in the carriage shall be fined each a hundred, if the driver be clearly unskilful.

295. ' Should a driver, being met in the way by another carriage or by cattle, kill any animal *by his negligence*, a fine shall, without doubt, be imposed *by the following rule* :

296. ' For killing a man, a fine, equal to that for theft, shall be instantly set ; half that amount, for large brute animals, as for a bull or cow, an elephant, a camel, or a horse ;

297. ' For killing very young cattle, the fine shall be two hundred *panas* ; and fifty, for elegant quadrupeds or beautiful birds, as *antelopes, parrots, and the like* ;

298. ' For an ass, a goat, or a sheep, the fine must be five silver *máshas* ; and one *másha*, for killing a dog or a boar.

299. ' A WIFE, a son, a servant, a pupil, and a *younger* whole brother, may be corrected, when they commit faults, with a rope or the small shoot of a cane ;

300. ' But on the back part only of their bodies, and not on a noble part by any means: he, who strikes them otherwise than by this rule, incurs the guilt, *or shall pay the fine*, of a thief.

301. ' This

301. ' This law of assault and battery has been completely declared: I proceed to declare the rule for the settled punishment of theft.

302. ' IN restraining thieves and robbers, let the king use extreme diligence; since, by restraining thieves and robbers, his fame and his domain are increased.

303. ' Constantly, no doubt, is that king to be honoured, who bestows exemption from fear; since he performs, *as it were*, a perpetual sacrifice, giving exemption from fear as a constant sacrificial present.

304. ' A sixth part of *the reward for* virtuous deeds, performed by the whole people, belongs to the king, who protects them; but, if he protect them not, a sixth part of their iniquity lights on him.

305. ' Of *the reward for* what every subject reads in the *Véda*, for what he sacrifices, for what he gives in charity, for what he performs in worship, the king justly takes a sixth part in consequence of protection.

306. ' A king, who acts with justice in defending all creatures, and slays only those, who ought to be slain, performs, *as it were*, each day a sacrifice with a hundred thousand gifts;

307. ' But a king, who gives no such protection, yet receives taxes in kind or in value, market duties and tolls, the small daily presents for his household, and fines for offences, falls directly *on his death* to a region of horror.

308. ' That

308. ' That king, who gives no protection, yet takes a sixth part of
' the grain as his revenue, wife men have considered as a prince, who
' draws to him the foulness of all his people.

309. ' Be it known, that a monarch, who pays no regard to the
' scriptures, who denies a future state, who acts with rapacity, who
' protects not his people, yet swallows up their possessions, will sink
' low indeed *after death*.

310. ' WITH great care and by three methods let him restrain the
' unjust; by imprisonment, by confinement in fetters, and by various
' kinds of corporal punishment;

311. ' Since, by restraining the bad, and by encouraging the good,
' kings are perpetually made pure, as the twiceborn are purified by
' sacrificing.

312. ' A KING, who seeks benefit to his own soul, must always for-
' give parties litigant, children, old men, and sick persons, who inveigh
' against him:

313. ' He, who forgives persons in pain, when they abuse him, shall
' on that account be exalted in heaven; but he, who excuses them not,
' through the pride of dominion, shall for that reason sink into hell.

314. ' THE stealer of gold from a priest must run hastily to the king,
' with loosened hair, proclaiming the theft, and adding: " Thus have
' I sinned; punish me."

315. ' He must bear on his shoulder a pestle of stone, or a club of
' *c'hadira*-wood, or a javelin pointed at both ends, or an iron mace:

316. ' Whether

316. ' Whether the king strike him with it, or dismiss him unhurt,
' the thief is then absolved from the crime ; but the king, if he punish
' him not, shall incur the guilt of the thief.

317. ' The killer of a priest, or *destroyer of an embryo*, casts his guilt
' on the *willing* eater of his provisions ; an adulterous wife, on her *neg-*
' *ligent* husband ; a bad scholar and sacrificer, on their *ignorant* pre-
' ceptor ; and a thief, on the *forgiving* prince :

318. ' But men, who have committed offences, and have received
' from kings the punishment due to them, go pure to heaven, and be-
' come as clear as those, who have done well.

319. ' HE, who steals the rope or the waterpot from a well, and
' he, who breaks down a cistern, shall be fined a *másha* of gold ; and
' that, *which he has taken or injured*, he must restore to its former con-
' dition.

320. ' Corporal punishment shall be inflicted on him, who steals
' more than ten *cumbhas* of grain (a *cumbha* is twenty *drónas*,
' and a *dróna*, two hundred *palas*) : for less he must be fined eleven
' times as much, and shall pay to the owner the amount of his pro-
' perty.

321. ' So shall corporal punishment be inflicted for stealing commo-
' dities usually sold by weight, or more than a hundred head of cattle,
' or gold, or silver, or costly apparel :

322. ' For stealing more than fifty *palas*, it is enacted that a hand
' shall be amputated ; for less, the king shall set a fine eleven times as
' much as the value.

323. ' For

323. ' For stealing men of high birth, and women above all, and
 ' the most precious gems, *as diamonds or rubies*, the thief deserves
 ' capital punishment.

324. ' For stealing large beasts, weapons, or medicines, let the king
 ' inflict *adequate* punishment, considering the time and the act.

325. ' For taking kine belonging to priests, and boring their nostrils,
 ' or for stealing their other cattle, the offender shall instantly lose half
 ' of one foot.

326. ' For stealing thread, raw cotton, materials to make spirituous
 ' liquor, cowdung, molasses, curds, milk, buttermilk, water, or grass,

327. ' Large canes, baskets of canes, salt of every kind, earthen-
 ' pots, clay or ashes,

328. ' Fish, birds, oil, or clarified butter, fleshmeat, honey, or any
 ' thing, *as leather, horn, or ivory*, that came from a beast,

329. ' Or other things not precious, or spirituous liquors, rice dressed
 ' with clarified butter, or other messes of boiled rice, the fine must be
 ' twice the value of the commodity stolen.

330. ' For stealing *as much as a man can carry* of flowers, green
 ' corn, shrubs, creepers, small trees, or other vegetables, enclosed by
 ' a hedge, the fine shall be five *raçticas* of gold or silver;

331. ' But for corn, potherbs, roots, and fruit, unenclosed by a
 ' fence, the fine is a hundred *panas*, if there be no sort of relation

‘ *between the taker and owner* ; or half a hundred, if there be such
 ‘ relation.

332. ‘ If the taking be violent, and in the sight of the owner, it is
 ‘ robbery ; if privately in his absence, it is only theft ; and *it is con-*
 ‘ *sidered as theft*, when a man, having received any thing, refuses to
 ‘ give it back.

333. ‘ On him, who steals the beforementioned things, when they
 ‘ are prepared for use, let the king set the lowest amercement *of the*
 ‘ *three* ; and *the same* on him, who steals only fire from the temple.

334. ‘ With whatever limb a thief commits the offence by any means
 ‘ in this world, *as if he break a wall with his hand or his foot*, even that
 ‘ limb shall the king amputate, for the prevention of a similar crime.

335. ‘ NEITHER a father, nor a preceptor, nor a friend, nor a mo-
 ‘ ther, nor a wife, nor a son, nor a domestick priest, must be left
 ‘ unpunished by the king, if they adhere not with firmness to their
 ‘ duty.

336. ‘ WHERE another man of lower birth would be fined one *pana*,
 ‘ the king shall be fined a thousand, *and he shall give the fine to the*
 ‘ *priests, or cast it into the river* : this is a sacred rule.

337. ‘ But the fine of a *Súdra* for theft shall be eightfold ; that of a
 ‘ *Vaisya*, sixteenfold ; that of a *Cshatriya*, two and thirtyfold.

338. ‘ That of a *Bráhmen*, four and sixtyfold, or a hundredfold com-
 ‘ plete, or even twice four and sixtyfold ; each of them knowing the
 ‘ nature of his offence.

339. ‘ The

339. ' The taking of roots, and fruit from a large tree, *in a field or a forest* unenclosed, or of wood for a sacrificial fire, or of grafts to be eaten by cows, MENU has pronounced no theft.

340. ' A PRIEST who willingly receives any thing, either for sacrificing or for instructing, from the hand of a man, who had taken what the owner had not given, shall be *punished* even as the thief.

341. ' A twiceborn man, who is travelling, and whose provisions are scanty, shall not be fined, for taking only two sugar canes, or two esculent roots, from the field of another man.

342. ' He, who ties the unbound, or looses the bound, *cattle of another*, and he, who takes a slave, a horse, or a carriage *without permission*, shall be punished as for theft.

343. ' A king, who, by *enforcing* these laws, restrains men from committing theft, acquires in this world fame, and, in the next, beatitude.

344. ' LET not the king, who ardently desires a feat with INDRA, and wishes for glory, which nothing can change or diminish, endure for a moment the man, who has committed atrocious violence, as by robbery, arson, or homicide.

345. ' He, who commits great violence, must be considered as a more grievous offender than a defamer, a thief, or a striker with a staff:

346. ' That king, who endures a man convicted of such atrocity, quickly goes to perdition and incurs publick hate.

347. ' Neither

347. ' Neither on account of friendship, nor for the sake of great
' lucre, shall the king dismiss the perpetrators of violent acts, who
' spread terror among all creatures.

348. ' THE twiceborn may take arms, when their duty is obstructed
' by force; and when, in some evil time, a disaster has befallen the
' twiceborn classes;

349. ' And in their own defence; and in a war for just cause; and
' in defence of a woman or a priest: he, who kills justly, commits
' no crime.

350. ' Let a man, without hesitation, slay another, *if he cannot other-*
' *wise escape*, who assails him with intent to murder, whether young or
' old, or his preceptor, or a *Bráhmén* deeply versed in the scripture.

351. ' By killing an assassin, who attempts to kill, whether in publick
' or in private, no crime is committed by the slayer: fury recoils upon
' fury.

352. ' MEN, who commit overt acts of adulterous inclinations for the
' wives of others, let the king banish from his realm, having punished
' them with such bodily marks, as excite aversion;

353. ' Since adultery causes, to the general ruin, a mixture of classes
' among men: thence arises violation of duties; and thence is the root
' of felicity quite destroyed.

354. ' A man, before noted for such an offence, who converses in
' secret with the wife of another, shall pay the first of the three usual
' amercements;

355. ' But

355. ' But a man, not before noted, who thus converies with her
' for some reasonable cause, shall pay no fine ; since in him there is no
' transgression.

356. ' He, who talks with the wife of another man at a place of
' pilgrimage, in a forest or a grove, or at the confluence of rivers, in-
' curs the guilt of an adulterous inclination :

357. ' To fend her flowers or perfumes, to sport and jest with her,
' to touch her apparel and ornaments, to sit with her on the same
' couch, are all held adulterous acts on his part.

358. ' To touch a married woman on *her breasts or any other* place,
' which ought not to be touched, or, being touched unbecomingly by
' her, to bear it complacently, are adulterous acts with mutual assent.

359. ' A man of the fervile class, who commits actual adultery with
' the wife of a priest, ought to suffer death : the wives, indeed, of all
' the four classes must ever be most especially guarded.

360. ' Mendicants, encomiasts, men prepared for a sacrifice, and
' *cooks and other* artisans, are not prohibited from speaking to married
' women.

361. ' Let no man converse, after he has been forbidden, with the
' wives of others : he, who thus converses, *after a husband or father has*
' forbidden *him*, shall pay a fine of one *suverna*.

362. ' These laws relate not to the wives of publick dancers or
' singers, or of such base men, as live by intrigues of their wives ; men,
' who

‘ who either carry women to others, or, lying concealed at home, permit them to hold a culpable intercourse :

363. ‘ Yet he, who has a private connexion with such women, or with fervant girls kept by one master, or with female anchorets *of an heretical religion*, shall be compelled to pay a small fine.

364. ‘ He, who vitiates a damsel without her consent, shall suffer corporal punishment instantly ; but he, who enjoys a willing damsel, shall not be corporally punished, if his class be the same with hers.

365. ‘ From a girl, who makes advances to a man of a high class, let not the king take the smallest fine ; but her, who first addresses a low man, let him constrain to live in her house well guarded.

366. ‘ A low man, who makes love to a damsel of high birth, ought to be punished corporally ; but he, who addresses a maid of equal rank, shall give the nuptial present *and marry her*, if her father please.

367. ‘ Of the man, who through insolence forcibly contaminates a damsel, let the king instantly order two fingers to be amputated, and condemn him to pay a fine of six hundred *panas* :

368. ‘ A man of equal rank, who defiles a consenting damsel, shall not have his fingers amputated, but shall pay a fine of two hundred *panas*, to restrain him from a repetition of his offence.

369. ‘ A damsel, polluting another damsel, must be fined two hundred *panas*, pay the double value of her nuptial present, and receive ten lashes with a whip ;

370. ‘ But

370. ' But a woman, polluting a damsel, shall have her head instantly shaven, and two of her fingers chopped off; and shall ride, mounted on an ass, *through the publick street*.

371. ' SHOULD a wife, proud of her family and the great qualities of her kinsmen, actually violate the duty, which she owes to her lord, let the king condemn her to be devoured by dogs in a place much frequented;

372. ' And let him place the adulterer on an iron bed well heated, under which the executioners shall throw logs continually, till the sinful wretch be there burned *to death*.

373. ' OF a man once convicted, and a year after guilty of *the same crime*, the fine must be doubled; *so it must*, if he be connected with the daughter of an outcast or with a *Chándali* woman.

374. ' A mechanick or servile man, having an adulterous connexion with a woman of a twiceborn class, whether guarded at home or unguarded, *shall thus be punished*: if she was unguarded, *he shall lose the part offending*, and his whole substance; if guarded, *and a priestess*, every thing, *even his life*.

375. ' *For adultery with a guarded priestess*, a merchant shall forfeit all his wealth after imprisonment for a year; a soldier shall be fined a thousand *panas*, and be shaven with *the urine of an ass*;

376. ' But, if a merchant or soldier commit adultery with a woman of the sacerdotal class, whom her husband guards not at home, the king shall only fine the merchant five hundred, and the soldier a thousand:

377. ' Both

377. ' Both of them, however, if they commit that offence with a
' priests *not only* guarded *but eminent for good qualities*, shall be
' punished like men of the servile class, or be burned in a fire of dry
' grass or reeds.

378. ' A *Brábmén*, who carnally knows a guarded woman without
' her free will, must be fined a thousand *panas*; but only five hundred if
' he knew her with her free consent.

379. ' Ignominious tonsure is ordained, instead of capital punish-
' ment, for an adulterer of the priestly class, where the punishment of
' other classes may extend to loss of life.

380. ' Never shall the king slay a *Brábmén*, though convicted of all
' possible crimes: let him banish the offender from his realm, but with
' all his property secure and his body unhurt:

381. ' No greater crime is known on earth than slaying a *Brábmén*;
' and the king, therefore, must not even form in his mind an idea of
' killing a priest.

382. ' If a merchant converse criminally with a guarded woman
' of the military, or a soldier with one of the mercantile, class, they
' both deserve the same punishment as in the case of a priests un-
' guarded:

383. ' But a *Brábmén*, who shall commit adultery with a guarded
' woman of those two classes, must be fined a thousand *panas*; and, for
' the like offence with a guarded woman of the servile class, the fine of
' a soldier or a merchant shall be also one thousand.

384. ' For

384. ' For adultery with a woman of the military class, if unguarded,
' the fine of a merchant is five hundred ; but a soldier, *for the converse*
' *of that offence*, must be shaved with urine, or pay the fine *just men-*
' *tioned*.

385. ' A priest shall pay five hundred *panas*, if he connect himself
' criminally with an unguarded woman of the military, commercial, or
' servile class ; and a thousand, *for such a connexion with* a woman of
' a vile *mixed* breed.

386. ' THAT king, in whose realm lives no thief, no adulterer, no
' defamer, no man guilty of atrocious violence, and no committer of
' assaults, attains the mansion of SACRA.

387. ' By suppressing those five in his dominion, he gains royalty
' paramount over men of the same kingly rank, and spreads his fame
' through the world.

388. ' THE sacrificer, who forsakes the officiating priest, and the
' officiating priest, who abandons the sacrificer, each being able to
' do his work, and guilty of no grievous offence, must each be fined a
' hundred *panas*.

389. ' A mother, a father, a wife, and a son shall not be forsaken :
' he, who forsakes either of them, unless guilty of a deadly sin, shall
' pay six hundred *panas* as a fine to the king.

390. ' LET not a prince, who seeks the good of his own soul, *hastily*
' *and alone* pronounce the law, on a dispute concerning any legal observ-
' ance, among twiceborn men in their several orders ;

391. ' *But* let him, after giving them due honour according to their merit, and, at first, having soothed them by mildness, apprise them of their duty with the assistance of *Bráhmens*.

392. ' THE priest, who, gives an entertainment to twenty men of the three first classes, without inviting his next neighbour, and his neighbour next but one, if both be worthy of an invitation, shall be fined one *másha* of silver.

393. ' A *Bráhmen* of deep learning in the *Véda*, who invites not another *Bráhmen*, both learned and virtuous, to an entertainment given on some occasion relating to his wealth, as the marriage of his child, and the like, shall be made to pay him twice the value of the repast, and be fined a *másha* of gold.

394. ' NEITHER a blind man, nor an idiot, nor a cripple, nor a man full seventy years old, nor one who confers great benefits on priests of eminent learning, shall be compelled by any king to pay taxes.

395. ' Let the king always do honour to a learned theologian, to a man either sick or grieved, to a little child, to an aged or indigent man, to a man of exalted birth, and to a man of distinguished virtue.

396. ' LET a washerman wash the clothes of his employers by little and little, or piece by piece, and not hastily, on a smooth board of *Sálmali*-wood: let him never mix the clothes of one person with the clothes of another, nor suffer any but the owner to wear them.

397. ' LET a weaver, who has received ten *palas* of cotton thread, give them back increased to eleven by the rice-water and the like used in

‘ *in weaving*: he, who does otherwise, shall pay a fine of twelve
 ‘ *panas*.

398. ‘ As men versed in cases of tolls, and acquainted with all
 ‘ marketable commodities, shall establish the price of saleable things,
 ‘ let the king take a twentieth part of *the profit on sales* at that price.

399. ‘ Of the trader, who, through avarice, exports commodities,
 ‘ of which the king justly claims the preemption, or on which he
 ‘ has laid an embargo, let the sovereign confiscate the whole property.

400. ‘ Any seller or buyer, who *fraudulently* passes by the toll office
 ‘ at *night* or any other improper time, or who makes a false enu-
 ‘ meration of *the articles bought*, shall be fined eight times as much as
 ‘ their value.

401. ‘ Let the king establish rules for the sale and purchase of all
 ‘ marketable things, having duly considered whence they come, *if im-*
 ‘ *ported*; and, *if exported*, whither they must be sent; how long they
 ‘ have been kept; what may be gained by them; and what has been
 ‘ expended on them.

402. ‘ Once in five nights, or at the close of every half month, *ac-*
 ‘ *cording to the nature of the commodities*, let the king make a regulation
 ‘ for market prices in the presence of those *experienced men*:

403. ‘ Let all weights and measures be well ascertained by him;
 ‘ and once in six months let him re-examine them.

404. ‘ The

404. ' The toll at a ferry is one *pana* for an empty cart ; half a *pana*,
' for a man with a load ; a quarter, for a beast used in agriculture, or
' for a women ; and an eighth, for an unloaded man.

405. ' Waggon, filled with goods packed up, shall pay toll in pro-
' portion to their value ; but for empty vessels and bags, and for *poor*
' men ill-apparelled, a very small toll shall be demanded.

406. ' For a long passage, the freight must be proportioned to places
' and times ; but this must be understood of passages up and down
' rivers : at sea there can be no settled freight.

407. ' A women, who has been two months pregnant, a religious
' beggar, a forester in the third order, and *Bráhmens*, who are students
' in theology, shall not be obliged to pay toll for their passage.

408. ' Whatever shall be broken in a boat, by the fault of the boat-
' men, shall be made good by those men collectively, each paying his
' portion.

409. ' This rule, ordained for such as pass rivers in boats, relates
' to the culpable neglect of boatmen on the water : in the case of in-
' evitable accident, there can be no damages recovered.

410. ' THE king should order each man of the mercantile class to
' practise trade, or moneylending, or agriculture and attendance on
' cattle ; and each man of the servile class to act in the service of the
' twiceborn.

411. ' Both

411. ' Both him of the military, and him of the commercial class,
' if distressed for a livelihood, let some wealthy *Bráhmén* support, oblig-
' ing them without harshness to discharge their several duties.

412. ' A *Bráhmén*, who, by his power and through avarice, shall
' cause twiceborn men, girt with the sacrificial thread, to perform
' servile acts, *such as washing his feet*, without their consent, shall be
' fined by the king six hundred *panas*;

413. ' But a man of the servile class, whether bought or unbought,
' he may compel to perform servile duty; because such a man was
' created by the Self-existent for the purpose of serving *Bráhméns*:

414. ' A *Súdra*, though emancipated by his master, is not released
' from a state of servitude; for of a state, which is natural to him, by
' whom can he be divested?

415. ' THERE are servants of seven sorts; one made captive under a
' standard *or in battle*, one maintained in consideration of service, one
' born of a female slave in the house, one fold, or given, or inherited
' from ancestors, and one enslaved by way of punishment *on his inability*
' to pay a large fine.

416. ' Three persons, a wife, a son, and a slave, are declared by
' law to have *in general* no wealth exclusively their own: the wealth,
' which they may earn, is *regularly* acquired for the man, to whom
' they belong.

417. ' A *Bráhmén* may seize without hesitation, *if he be distressed*
' for a subsistence, the goods of his *Súdra* slave; for, as that slave can
' have no property, his master may take his goods.

418. ' With

418. ' With vigilant care should the king exert himself in compelling
' merchants and mechanicks to perform their respective duties ; for,
' when such men swerve from their duty, they throw this world into
' confusion.

419. ' Day by day must the king, *though engaged in forensick business,*
' consider the great objects of publick measures, and inquire into the
' state of his carriages, *elephants, horses, and cars,* his constant revenues
' and necessary expenses, his mines *of precious metals or gems,* and his
' treasury :

420. ' Thus, bringing to a conclusion all these weighty affairs, and
' removing *from his realm and from himself* every taint of sin, a king
' reaches the supreme path of beatitude.

CHAPTER THE NINTH.

On the Same ; and on the Commercial and Servile Classes.

1. ‘ **I** NOW will propound the immemorial duties of man and
‘ woman, who must both remain firm in the legal path, whether united
‘ or separated.

2. ‘ Day and night must women be held by their protectors in a
‘ state of dependence ; but in *lawful and innocent* recreations, though
‘ rather addicted to them, they may be left at their own disposal.

3. ‘ Their fathers protect them in childhood ; their husbands pro-
‘ tect them in youth ; their sons protect them in age : a woman is
‘ never fit for independence.

4. ‘ Reprehensible is the father, who gives not his daughter in mar-
‘ riage at the proper time ; and the husband, who approaches not his
‘ wife in due season ; reprehensible also is the son, who protects not his
‘ mother after the death of her lord.

5. ‘ Women must, above all, be restrained from the smallest illicit
‘ gratification ; for, not being thus restrained, they bring sorrow on
‘ both families :

6. ‘ Let

6. ' Let husbands consider this as the supreme law, ordained for all
' classes; and let them, how weak soever, diligently keep their wives
' under lawful restrictions;

7. ' For he, who preserves his wife *from vice*, preserves his offspring
' *from suspicion of bastardy*, his ancient usages *from neglect*, his family
' *from disgrace*, himself *from anguish*, and his duty *from violation*.

8. ' The husband, after conception by his wife, becomes himself an
' embryo, and is born a second time here below; for which reason the
' wife is called *jáyá*, since by her (*jáyaté*) he is born again:

9. ' Now the wife brings forth a son endued with similar qualities
' to those of the father; so that, with a view to an excellent offspring,
' he must vigilantly guard his wife.

10. ' No man, indeed, can wholly restrain women by violent mea-
' sures; but, by these expedients, they may be restrained:

11. ' Let the husband keep his wife employed in the collection and
' expenditure of wealth, in purification and female duty, in the pre-
' paration of daily food, and the superintendence of household utensils.

12. ' By confinement at home, even under affectionate and observant
' guardians, they are not secure; but those women are truly secure,
' who are guarded by their own good inclinations.

13. Drinking *spirituous liquor*, associating with evil persons, absence
' from her husband, rambling abroad, unseasonable sleep, and dwelling
' in the house of another, are six faults which bring infamy on a mar-
' ried woman:

14. ' Such

14. ' Such *women* examine not beauty, nor pay attention to age ;
' whether *their lover* be handsome or ugly, they think it is enough that
' he is a man, and pursue their pleasures.

15. ' Through their passion for men, their mutable temper, their
' want of settled affection, and their perverse nature (let them be
' guarded in this world ever so well) they soon become alienated from
' their husbands.

16. ' Yet should their husbands be diligently careful in guarding
' them ; though they well know the disposition, with which the lord of
' creation formed them :

17. ' MENU allotted to such women a love of their bed, of their
' seat, and of ornament, impure appetites, wrath, weak flexibility,
' desire of mischief, and bad conduct.

18. ' Women have no business with the texts of the *Véda* ; thus is
' the law fully settled : having, therefore, no evidence of *law*, and no
' knowledge of expiatory texts, sinful women must be as foul as false-
' hood itself ; and this is a fixed rule.

19. ' To this effect many texts, which may show their true dispo-
' sition, are chanted in the *Védas* : hear now their expiation for sin.

20. " That pure blood, which my mother defiled by adulterous de-
" fire, frequenting the houses of other men, and violating her duty to
" her lord, that blood may my father purify !" Such is the tenour
' of the holy text, *which her son, who knows her guilt, must pronounce*
' *for her* ;

21. ' *And* this expiation has been declared for every unbecoming
 ' thought, which enters her mind, concerning infidelity to her husband;
 ' since that *is the beginning of* adultery.

22. ' Whatever be the qualities of the man, with whom a woman
 ' is united by lawful marriage, such qualities even she assumes; like a
 ' river *united* with the sea.

23. ' ACSHAMA'LA', a woman of the lowest birth, being thus united
 ' to VASISHT'HA, and SA'RANGÍ, being united to MANDAPA'LA, were
 ' entitled to very high honour:

24. ' These, and other females of low birth, have attained eminence
 ' in this world by the respective good qualities of their lords.

25. ' Thus has the law, ever pure, been propounded for the civil
 ' conduct of men and women: hear, next, the laws concerning children,
 ' by obedience to which may happiness be attained in this and the fu-
 ' ture life.

26. ' WHEN good women, united with husbands in expectation of
 ' progeny, eminently fortunate and worthy of reverence, irradiate the
 ' houses of their lords, between them and goddesses of abundance there
 ' is no diversity whatever.

27. ' The production of children, the nurture of them, when pro-
 ' duced, and the daily superintendence of domestick affairs are peculiar
 ' to the wife:

28. ' From the wife alone proceed offspring, good household ma-
 ' nagement, solicitous attention, most exquisite caresses, and that hea-
 ' venly

‘venly beatitude, which she obtains for the manes of ancestors, and for
‘*the husband* himself.

29. ‘She, who deserts not her lord, but keeps in subjection to him
‘her heart, her speech, and her body, shall attain his mansion in hea-
‘ven, and, by the virtuous in this world, be called *Sádbwì*, or good
‘and faithful;

30. ‘But a wife, by disloyalty to her husband, shall incur disgrace in
‘this life, and be born *in the next* from the womb of a shakal, or be
‘tormented with horrible diseases, which punish vice.

31. ‘LEARN now that excellent law, universally salutary, which
‘was declared, concerning issue, by great and good sages formerly
‘born.

32. ‘They consider the male issue of a woman as the son of the
‘lord; but, on the subject of that lord, a difference of opinion is men-
‘tioned in the *Véda*; some giving that name to the real procreator
‘of the child, and others applying it to the married possessor of the
‘woman.

33. ‘The woman is considered in law as the field, and the man as
‘the grain: now vegetable bodies are formed by the united operation
‘of the seed and the field.

34. ‘In some cases the prolific power of the male is chiefly dis-
‘tinguished; in others, the receptacle of the female; but, when both
‘are equal in dignity, the offspring is most highly esteemed:

35. ‘In

35. ' In general, as between the male and female powers of pro-
' creation, the male is held superiour; since the offspring of all pro-
' creant beings is distinguished by marks of the male power.

36. ' Whatever be the quality of feed, scattered in a field prepared
' in due season, a plant of the same quality springs in that field, with
' peculiar visible properties.

37. ' Certainly this earth is called the primeval womb of many beings;
' but the feed exhibits not in its vegetation any properties of the womb.

38. ' On earth here below, even in the same ploughed field, feeds
' of many different forms, having been sown by husbandmen in the
' proper season, vegetate according to their nature:

39. ' Riceplants, mature in sixty days, and those, which require
' transplantation, *mudga*, *tila*, *māsba*, barley, leaks, and sugarcane,
' all spring up according to the feeds.

40. ' That one plant should be sown, and another produced, cannot
' happen: whatever feed may be sown, even that produces its proper
' item.

41. ' Never must it be sown in another man's field by him, who has
' natural good sense, who has been well instructed, who knows the
' *Vēda* and its *Angas*, who desires long life:

42. ' They, who are acquainted with past times, have preserved, on
' this subject, holy strains chanted by every breeze, *declaring*, that
" feed must not be sown in the field of another man."

43. ' As

43. ‘ As the arrow of that hunter is vain, who shoots it into the
‘ wound, which another had made just before in the antelope, thus
‘ instantly perishes the feed, which a man throws into the foil of
‘ another :

44. ‘ Sages, who know former times, consider this earth (*Prīṭ’hivī*)
‘ as the wife of king PRĪTHU ; and thus they pronounce cultivated
‘ land to be the property of him, who cut away the wood, *or who*
‘ *cleared and tilled it* ; and the antelope, of the first hunter, who mor-
‘ tally wounded it.

45. ‘ Then only is a man perfect, when he consists of *three persons*
‘ *united*, his wife, himself, and his son ; and thus have learned *Brāhmens*
‘ announced this *maxim* : “ The husband is even one person with his
“ wife,” *for all domestick and religious, not for all civil, purposes.*

46. ‘ Neither by sale nor desertion can a wife be released from her
‘ husband : thus we fully acknowledge the law enacted of old by the
‘ lord of creatures.

47. ‘ Once is the partition of an inheritance made ; once is a damsel
‘ given in marriage ; and once does a man say “ I give :” these three
‘ are, by good men, done once for all *and irrevocably.*

48. ‘ As with cows, mares, female camels, slavegirls, milch buffalos,
‘ shegoats, and ewes, it is not the owner of the *bull or other* father,
‘ who owns the offspring, even thus is it with the wives of others.

49. ‘ They, who have no property in the field, but, having grain in
‘ their possession, sow it in soil owned by another, can receive no ad-
‘ vantage whatever from the corn, which may be produced :

50. ‘ Should

50. ' Should a bull beget a hundred calves on cows not owned by
 ' his master, those calves belong solely to the proprietors of the cows;
 ' and the strength of the bull was wasted:

51. ' Thus men, who have no marital property in women, but sow
 ' in the fields owned by others, may raise up fruit to the husbands;
 ' but the procreator can have no advantage from it.

52. ' Unless there be a special agreement between the owners of the
 ' land and of the seed, the fruit belongs clearly to the landowner; for
 ' the receptacle is more important than the seed:

53. ' But the owners of the seed and of the soil may be considered in
 ' this world as joint owners of the crop, which they agree, by special
 ' compact in consideration of the seed, to divide between them.

54. ' Whatever man owns a field, if seed, conveyed into it by water
 ' or wind, should germinate, the plant belongs to the landowner: the
 ' mere sower takes not the fruit.

55. ' Such is the law concerning the offspring of cows, and mares,
 ' of female camels, goats, and sheep, of slave girls, hens, and milch
 ' buffalos, *unless there be a special agreement.*

56. ' Thus has the comparative importance of the soil and the seed
 ' been declared to you: I will next propound the law concerning
 ' women, who have no issue *by their husbands.*

57. ' The wife of an elder brother is considered as mother in law to
 ' the younger; and the wife of the younger as daughter in law to the
 ' elder:

58. ' The

58. ' The elder brother, amorously approaching the wife of the
' younger, and the younger, careffing the wife of the elder, are both
' degraded, even though authorized *by the husband or spiritual guide*,
' except when such wife has no issue.

59. ' On failure of issue by the husband, *if he be of the servile class*,
' the desired offspring may be procreated, either by his brother or some
' other *sapinda*, on the wife, who has been duly authorized :

60. ' Sprinkled with clarified butter, silent, in the night, let the
' kinsman thus appointed beget one son, but a second by no means, on
' the widow *or childless wife* :

61. ' Some sages, learned in the laws concerning women, thinking
' it possible, that the great object of that appointment may not be ob-
' tained *by the birth of a single son*, are of opinion, that the wife and
' appointed kinsman may legally procreate a second.

62. ' The first object of the appointment being obtained according
' to law, both *the brother and the widow* must live together like a
' father and a daughter by affinity.

63. ' Either brother, appointed for this purpose, who deviates from
' the strict rule, and acts from carnal desire, shall be degraded, as hav-
' ing defiled the bed of his daughter in law or of his father.

64. ' By men of twiceborn classes no widow, *or childless wife*, must
' be authorized to conceive by any other than her lord; for they, who
' authorize her to conceive by any other, violate the primeval law.

65. ' Such

65. ' Such a commiffion *to a brother or other near kinsman* is
 ' nowhere mentioned in the nuptial texts of the *Véda*; nor is
 ' the marriage of a widow even named in the laws concerning mar-
 ' riage.

66. ' This practice, fit only for cattle, is reprehended by learned
 ' *Bráhmens*; yet it is declared to have been the practice even of men,
 ' while VE'NA had fovereign power :

67. ' He, poffeffing the whole earth, and *thence only called* the chief
 ' of fage monarchs, gave rife to a confufion of claffes, when his in-
 ' tellect became weak through luft.

68. ' Since his time the virtuous difapprove of that man, who,
 ' through delufion of mind, directs a widow *to receive the careffes of*
 ' *another* for the fake of progeny.

69. ' The damfel, *indeed*, whose hufband fhall die after troth verbally
 ' plighted, *but before confummation*, his brother fhall take in marriage
 ' according to this rule :

70. ' Having espoufed her in due form of law, fhe being clad in a
 ' white robe, and pure in her moral conduct, let him approach her
 ' once in each proper feafon, and until iffue *be had*.

71. ' LET no man of fenfe, who has once given his daughter to a
 ' fuitor, give her again to another; for he, who gives away his daughter,
 ' whom he had before given, incurs the guilt and fine of fpeaking
 ' falſely in a caufe concerning mankind.

72. ' EVEN

72. 'EVEN though a man have married a young woman in legal form, yet he may abandon her, if he find her blemished, afflicted with disease, or previously deflowered, and given to him with fraud :

73. 'If any man give a faulty damsel in marriage, without disclosing her blemish, the husband may annul that act of her illminded giver.

74. 'SHOULD a man have business abroad, let him assure a fit maintenance to his wife, and then reside *for a time* in a foreign country ; since a wife, even though virtuous, may be tempted to act amiss, if she be distressed by want of subsistence :

75. 'While her husband, having settled her maintenance, resides abroad, let her continue firm in religious austerities ; but, if he leave her no support, let her subsist by *spinning and other* blameless arts.

76. 'If he live abroad on account of some sacred duty, let her wait for him eight years ; if on account of knowledge or fame, six ; if on account of pleasure, three : *after those terms have expired, she must follow him.*

77. 'For a whole year let a husband bear with his wife, who treats him with aversion ; but, after a year, let him deprive her of her separate property, and cease to cohabit with her.

78. 'She, who neglects her lord, though addicted to gaming, fond of spirituous liquors, or diseased, must be deserted for three months, and deprived of her ornaments and household furniture :

79. ' But she, who is averse from a mad husband, or a deadly sinner,
' or an eunuch, or one without manly strength, or one afflicted with
' such maladies as punish crimes, must neither be deserted nor stripped
' of her property.

80. ' A WIFE, who drinks any spirituous liquors, who acts immo-
' rally, who shows hatred *to her lord*, who is *incurably* diseased, who is
' mischievous, who wastes his property, may at all times be superseded
' by another wife.

81. ' A barren wife may be superseded by another in the eighth year :
' she, whose children are all dead, in the tenth ; she, who brings forth
' *only* daughters, in the eleventh ; she, who speaks unkindly, without
' delay ;

82. ' But she, who, though afflicted with illness, is beloved and vir-
' tuous, must never be disgraced, though she may be superseded by
' another wife with her own consent.

83. ' If a wife, legally superseded, shall depart in wrath from the
' house, she must either instantly be confined, or abandoned in the
' presence of the whole family :

84. ' But she, who, having been forbidden, addicts herself to intoxi-
' cating liquor even at jubilees, or mixes in crowds at theatres, must
' be fined six *raeticás* of gold.

85. ' WHEN twiceborn men take wives, both of their own class
' and others, the precedence, honour, and habitation of those wives,
' must be settled according to the order of their classes :

86. ' To

86. ' To all such married men, the wives of the same class only
' (not wives of a different class by any means) must perform the duty
' of personal attendance, and the daily business relating to acts of re-
' ligious;

87. ' For he, who foolishly causes those duties to be performed by
' any other than his wife of the same class, when she is near at hand,
' has been immemorially considered as a mere *Chandála* begotten on a
' *Bráhmén*.

88. ' To an excellent and handsome youth of the same class, let
' every man give his daughter in marriage, according to law; even
' though she have not attained her age of eight years :

89. ' But it is better, that the damsel, though marriageable, should
' stay at home till her death, than that he should ever give her in mar-
' riage to a bridegroom void of excellent qualities.

90. ' Three years let a damsel wait, though she be marriageable; but,
' after that term, let her chuse for herself a bridegroom of equal rank :

91. ' If, not being given in marriage, she chuse her bridegroom,
' neither she, nor the youth chosen, commits any offence ;

92. ' But a damsel, thus electing her husband, shall not carry with
' her the ornaments, which she received from her father, nor those
' given by her mother or brethren : if she carry them away, she com-
' mits theft.

93. ' He, who takes to wife a damsel of full age, shall not give a
' nuptial present to her father ; since the father lost his dominion
over

‘ over her, by detaining her at a time, when she might have been a
‘ parent.

94. ‘ A man, aged thirty years, may marry a girl of twelve, *if he find*
‘ *one* dear to his heart; or a man of twenty-four years, a damsel of
‘ eight: but, *if he finish his studentship earlier, and the duties of his next*
‘ *order* would otherwise be impeded, let him marry immediately.

95. ‘ A wife, given by the gods, *who are named in the bridal texts*, let
‘ the husband receive and support constantly, if she be virtuous, though
‘ he married her not from inclination: such conduct will please the gods.

96. ‘ To be mothers, were women created; and to be fathers, men;
‘ religious rites, therefore are ordained in the *Véda* to be performed *by*
‘ *the husband* together with the wife.

97. ‘ If a nuptial gratuity has actually been given to a damsel, and
‘ he, who gave it, should die *before marriage*, the damsel shall be mar-
‘ ried to his brother, if she consent;

98. ‘ But even a man of the servile class ought not to receive a
‘ gratuity, when he gives his daughter in marriage; since a father, who
‘ takes a fee *on that occasion*, tacitly sells his daughter.

99. ‘ Neither ancients nor moderns, who were good men, have ever
‘ given a damsel in marriage, after she had been promised to another
‘ man;

100. ‘ Nor, even in former creations, have we heard *the virtuous*
‘ *approve* the tacit sale of a daughter for a price, under the name of a
‘ nuptial gratuity.

101. “ Let

101. "Let mutual fidelity continue till death:" this, in few words,
' may be considered as the supreme law between husband and wife.

102. ' Let a man and woman, united by marriage, constantly
' beware, lest, at any time disunited, they violate their mutual fide-
' lity.

103. ' Thus has been declared to you the law, abounding in the
' purest affection, for the conduct of man and wife; together with
' the practice of raising up offspring *to a husband of the servile*
' *class* on failure of issue by him begotten: learn now the law of inheri-
' tance.

104. ' AFTER the death of the father and the mother, the brothers,
' being assembled, may divide among themselves the paternal *and ma-*
' *ternal* estate; but they have no power over it, while their parents
' live, *unless the father chuse to distribute it.*

105. ' The eldest brother may take entire possession of the patri-
' mony; and the others may live under him, as *they lived* under their
' father, *unless they chuse to be separated.*

106. ' By the eldest, at the moment of his birth, the father, having
' begotten a son, discharges his debt to his own progenitors; the eldest
' son, therefore, ought *before partition* to manage the whole patri-
' mony:

107. ' That son alone, by whose birth he discharges his debt, and
' through whom he attains immortality, was begotten from a sense of
' duty: all the rest are considered by the wife as begotten from love
' of pleasure.

108. ' Let

108. ' Let the father alone support his sons ; and the first born, his
' younger brothers ; and let them behave to the eldest, according to
' law, as children *should behave* to their father.

109. ' The first born, *if virtuous*, exalts the family, or, *if vitious*,
' destroys it : the first born is in this world the most respectable ; and
' the good never treat him with disdain.

110. ' If an elder brother act, as an elder brother ought, he is *to be*
' *revered* as a mother, as a father ; and, even if he have not the be-
' haviour of a good elder brother, he should be respected as a *maternal*
' *uncle, or other kinsman*.

111. ' Either let them thus live together, or, if they desire *separately*
' *to perform* religious rites, let them live apart ; since religious duties
' are multiplied in separate houses, their separation is, therefore, legal
' *and even laudable*.

112. ' The portion deducted for the eldest is a twentieth part *of the*
' *heritage*, with the best of all the chattels ; for the middlemost, half of
' that, *or a fortieth* ; for the youngest, a quarter of it, *or an eightieth*.

113. ' The eldest and youngest respectively take their just mentioned
' portions ; and, if there be more than one between them, each of the
' intermediate sons has the mean portion, *or the fortieth*.

114. ' Of all the goods collected, let the first born, *if he be trans-*
' *cendantly learned and virtuous*, take the best article, whatever is most
' excellent in its kind, and the best of ten cows *or the like* :

115. ' But, among brothers equally skilled in performing their seve-
' ral duties, there is no deduction of the best in ten, *or the most excellent*
chattel ;

‘ *chattel*; though some trifle, as a mark of greater veneration, should
‘ be given to the first born.

116. ‘ If a deduction be thus made, let equal shares of the residue be
‘ ascertained *and received*; but, if there be no deduction, the shares
‘ must be distributed in this manner :

117. ‘ Let the eldest have a double share, and the next born, a share
‘ and a half, *if they clearly surpass the rest in virtue and learning*; the
‘ younger sons must have each a share : *if all be equal in good qualities,*
‘ *they must all take share and share alike.*

118. ‘ To the *unmarried* daughters *by the same mother*, let their bro-
‘ thers give portions out of their own allotments respectively, *according*
‘ *to the classes of their several mothers* : let each give a fourth part of
‘ his own distinct share; and they, who refuse to give it, shall be de-
‘ graded.

119. ‘ Let them never divide *the value of* a single goat or sheep, or
‘ a single beast with uncloven hoofs : a single goat or sheep *remaining*
‘ *after an equal distribution* belongs to the first born.

120. ‘ Should a younger brother *in the manner before mentioned* have
‘ begotten a son on the wife of his *deceased* elder brother, the division
‘ must then be made equally *between that son, who represents the de-*
‘ *ceased, and his natural father* : thus is the law settled.

121. ‘ The representative is not *so far* wholly substituted by law in
‘ the place of the *deceased* principal, *as to have the portion of an elder son*;
‘ and the principal became a father in consequence of the procreation
‘ *by*

‘ *by his younger brother*; the son, therefore, is entitled by law to an
 ‘ equal share, *but not to a double portion*.

122. ‘ A younger son being born of a first married wife, after an
 ‘ elder son had been born of a wife last married, *but of a lower class*,
 ‘ it may be a doubt in that case, how the division shall be made :

123. ‘ Let the son, born of the elder wife, take one most excellent
 ‘ bull deducted from the inheritance ; the next excellent bulls are for
 ‘ those, who *were born first*, *but* are inferior on account of their mothers,
 ‘ *who were married last*.

124. ‘ A son, indeed, who was first born, and brought forth by the
 ‘ wife first married, may take, *if learned and virtuous*, one bull and
 ‘ fifteen cows ; and the other sons may then take, each in right of his
 ‘ several mother : such is the fixed rule.

125. ‘ As between sons, born of wives equal in their class *and* with-
 ‘ out *any other* distinction, there can be no seniority in right of the
 ‘ mother ; but the seniority ordained by law, is according to the birth.

126. ‘ The right of invoking INDRA by the texts, called *śwabrāh-*
 ‘ *manyá*, depends on actual priority of birth ; and of twins also, *if any*
 ‘ *such be conceived* among *different* wives, the eldest is he, who was first
 ‘ actually born.

127. ‘ HE, who has no son, may appoint his daughter in this man-
 ‘ ner to raise up a son for him, *saying*: “ the male child, who shall be
 “ born from her in wedlock, shall be mine for the purpose of perform-
 “ ing my obsequies.”

128. ‘ In

128. ' In this manner DACSHA himself, lord of created beings,
' anciently appointed all his *fifty* daughters to raise up sons to him, for
' the sake of multiplying his race :

129. ' He gave ten to DHERMA, thirteen to CASYAPA, twenty-seven
' to SÓMA, king of *Bráhmens and medical plants*, after doing honour to
' them with an affectionate heart.

130. ' THE son of a man is even as himself; and as the son, such is
' the daughter *thus appointed*: how then, *if he have no son*, can any in-
' herit his property, but a daughter, who is closely united with his own
' soul ?

131. ' Property, given to the mother on her marriage, is inherited
' by her *unmarried* daughter; and the son of a daughter, *appointed in*
' *the manner just mentioned*, shall inherit the whole estate of her father,
' who leaves no son *by himself begotten* :

132. ' The son, however, of *such* a daughter, who succeeds to all the
' wealth of her father dying without a son, must offer two funeral
' cakes, one to his own father, and one to the father of his mother.

133. ' Between a son's son and the son of *such* a daughter, there is no
' difference in law; since their father and mother both sprang from
' the body of the same man :

134. ' But, a daughter having been appointed to produce a son for
' her father, and a son, *begotten by himself*, being afterwards born, the di-
' vision of the heritage must in that case be equal; since there is no
' right of primogeniture for a woman.

135. ' Should a daughter, thus appointed to raise up a son for her
' father, die by any accident without a son, the husband of that
' daughter may, without hesitation, possess himself of her property.

136. ' By that male child, whom a daughter thus appointed, either
' by an implied intention or a plain declaration, shall produce from an
' husband of an equal class, the maternal grandfather becomes in law
' the father of a son: let that son give the funeral cake and possess the
' inheritance.

137. ' By a son, a man obtains victory over all people; by a son's
' son, he enjoys immortality; and, afterwards, by the son of that grand-
' son, he reaches the solar abode.

138. ' Since the son (*tráyaté*) delivers his father from the hell named
' *put*, he was, therefore, called *puttra* by BRAHMA' himself:

139. ' Now between the sons of his son and of his daughter *thus ap-
' pointed*, there subsists in this world no difference; for even the son of
' *such* a daughter delivers him in the next, like the son of his son.

140. ' Let the son of such a daughter offer the first funeral cake to
' his mother; the second to her father; the third, to her paternal
' grandfather.

141. ' Of the man, to whom a son has been given, *according to a
' subsequent law*, adorned with every virtue, that son shall take *a fifth
' or sixth part of* the heritage, though brought from a different family.

142. ' A given son must never claim the family and estate of his
' natural father: the funeral cake follows the family and estate; but
' of

‘ of him, who has given away his son, the funeral oblation is ex-
 ‘ tinct.

143. ‘ THE son of a wife, not authorized to have issue by another,
 ‘ and the son begotten, by the brother of the husband, on a wife, who
 ‘ has a son then living, are both unworthy of the heritage; one being
 ‘ the child of an adulterer, and the other produced through mere lust.

144. ‘ Even the son of a wife duly authorized, not begotten accord-
 ‘ ing to the law *already propounded*, is unworthy of the paternal estate;
 ‘ for he was procreated by an outcast:

145. ‘ But the son *legally* begotten on a wife, authorized for the
 ‘ purpose *before mentioned*, may inherit *in all respects*, if he be *virtuous*
 ‘ *and learned*, as a son begotten by the husband; since *in that case* the
 ‘ seed and the produce belong of right to the owner of the field.

146. ‘ He, who keeps the *fixed and moveable* estate of his *deceased*
 ‘ brother, maintains the widow, and raises up a son to that brother,
 ‘ must give to that son, *at the age of fifteen*, the whole of his brother’s
 ‘ *divided* property.

147. ‘ Should a wife, even though legally authorized, produce a
 ‘ son by the brother, or any other *sapinda*, of her husband, that son,
 ‘ if begotten with *amorous embraces*, and *tokens of* impure desire, the
 ‘ sages proclaim baseborn and incapable of inheriting.

148. ‘ THIS law, *which has preceded*, must be understood of a distri-
 ‘ bution among sons begotten on women of the same class: hear now
 ‘ the law concerning *sons* by several women of different classes.

149. ‘ If

149. ' If there be four wives of a *Brábhmen* in the direct order of the
' classes, and sons are produced by them all, this is the rule of partition
' among them :

150. ' The chief servant in husbandry, the bull kept for impregnating
' cows, the riding horse or carriage, the *ring and other* ornaments,
' and the principal messuage, shall be deducted from the inheritance
' and given to the *Brábhmen* son, together with a larger share by way
' of preeminence.

151. ' Let the *Brábhmen* take three shares of the residue ; the son of
' the *Cshatriyá* wife, two shares ; the son of the *Vaisiyá* wife, a share and
' a half ; and the son of the *Súdra* wife, may take one share.

152. ' Or, *if no deduction be made*, let some person learned in the
' law divide the whole collected estate into ten parts, and make a
' legal distribution by this *following* rule :

153. ' Let the son of the *Brábhmaní* take four parts ; the son of the
' *Cshatriyá*, three ; let the son of the *Vaisiyá* have two parts ; let the
' son of the *Súdra* take a single part, *if he be virtuous*.

154. ' But, whether the *Brábhmen* have sons, or have no sons, *by*
' *wives of the three first classes*, no more than a tenth part must be
' given to the son of a *Súdra*.

155. ' The son of a *Brábhmen*, a *Cshatriyá*, or a *Vaisiyá* by a wo-
' man of the servile class, shall inherit no part of the estate, *unless he*
' *be virtuous ; nor jointly with other sons, unless his mother was lawfully*
' *married* : whatever his father may give him, let that be his own.

156. ' All

156. ' All the sons of twiceborn men, produced by wives of the
' same class, must divide the heritage equally, after the younger bro-
' thers have given the first born his deducted allotment.

157. ' For a *Súdra* is ordained a wife of his own class, *and* no other :
' all, produced by her, shall have equal shares, though she have a hun-
' dred sons.

158. ' Of the twelve sons of men, whom *MENU*, sprung from the
' Self-existent, has named, six are kinsmen and heirs ; six, not heirs,
' *except to their own fathers*, but kinsmen.

159. ' The son begotten by a man himself *in lawful wedlock*, the son
' of his wife begotten *in the manner before described*, a son given to him,
' a son made *or adopted*, a son of concealed birth, *or whose real father*
' *cannot be known*, and a son rejected *by his natural parents*, are the six
' kinsmen and heirs :

160. ' The son of a young woman *unmarried*, the son of a preg-
' nant bride, a son bought, a son by a twice married woman, a son self-
' given, and a son by a *Súdra*, are the six kinsmen, but not heirs to
' *collaterals*.

161. ' Such advantage, as a man would gain, who should attempt
' to pass deep water in a boat made of woven reeds, that father obtains,
' who passes the gloom of death, leaving only contemptible sons, *who*
' *are the eleven, or at least the six, last mentioned*.

162. If the two heirs of one man be the son of his own body and a
' son of his wife by a kinsman, *the former of whom was begotten after*
' *his recovery from an illness thought incurable*, each of the sons, ex-
' clusively

clusively of the other, shall succeed to the whole estate of his natural father.

163. ' The son of his own body is the sole heir to his estate, but, that all evil may be removed, let him allow a maintenance to the rest;

164. ' And, when the son of the body has taken an account of the paternal inheritance, let him give a sixth part of it to the son of the wife begotten by a kinsman, *before his father's recovery*; or a fifth part, *if that son be eminently virtuous*.

165. ' The son of the body, and the son of the wife may succeed immediately to the paternal estate *in the manner just mentioned*; but the ten other sons can only succeed in order to the family duties and to their share of the inheritance, *those last named being excluded by any one of the preceding*.

166. ' HIM, whom a man has begotten on his own wedded wife, let him know to be the first in rank, as the son of his body.

167. ' He, who was begotten, according to law, on the wife of a man deceased, or impotent, or disordered, after due authority given to her, is called the lawful son of the wife.

168. ' He, whom his father, or mother *with her husband's assent*, gives to another as his son, provided that the donee have no issue, if the boy be of the same class and affectionately disposed, is considered as a son given, *the gift being confirmed by pouring water*.

169. ' He is considered as a son made *or adopted*, whom a man takes as his own son, the boy being equal in class, endued with filial virtues, acquainted

‘ acquainted with *the merit of performing obsequies to his adopter*, and
‘ with *the sin of omitting them*.

170. ‘ In whose mansions soever a male child shall be brought forth
‘ by a married woman, whose husband has long been absent, if the real father
‘ cannot be discovered, but if it be probable that he was of an equal
‘ class, that child belongs to the lord of the *unfaithful* wife, and is
‘ called a son of concealed birth in his mansion.

171. ‘ A boy, whom a man receives as his own son, after he has
‘ been deserted *without just cause* by his parents, or by either of them,
‘ if one be dead, is called a son rejected.

172. ‘ A son, whom the daughter of any man privately brings forth
‘ in the house of her father, if she afterwards marry her lover, is de-
‘ scribed as a son begotten on an unmarried girl.

173. ‘ If a pregnant young woman marry, whether her pregnancy
‘ be known or unknown, the male child in her womb belongs to the
‘ bridegroom, and is called a son received with his bride.

174. ‘ He is called a son bought, whom a man, for the sake of hav-
‘ ing a son to perform his obsequies, purchases from his father and mo-
‘ ther, whether the boy be equal or unequal to himself in good qualities,
‘ for in class all adopted sons must be equal.

175. ‘ He, whom a woman, either forsaken by her lord or a widow,
‘ conceived by a second husband, whom she took by her own desire,
‘ though against law, is called the son of a woman twice married:

176. ‘ If,

176. ' If, *on her second marriage*, she be still a virgin, or if she left
 ' her husband under the age of puberty and return to him at his full
 ' age, she must again perform the nuptial ceremony, *either* with her
 ' second, *or her young and deserted*, husband.

177. ' He, who has lost his parents, or been abandoned *by them*
 ' without just cause, and offers himself to a man *as his son*, is called a
 ' son selfgiven.

178. ' A son, begotten through lust on a *Súdra* by a man of the
 ' priestly class, is even as a corpse, though alive, and is thence called
 ' in law a living corpse :

179. ' But a son, begotten by a man of the servile class on his female
 ' slave, or on the female slave of his male slave, may take a share of the
 ' heritage, if permitted *by the other sons* : thus is the law established.

180. ' These eleven sons (the son of the wife, and the rest as enu-
 ' merated) are allowed by wise legislators to be substitutes *in order* for
 ' sons of the body, for the sake of preventing a failure of obsequies ;

181. ' Though such, as are called sons for that purpose, but were
 ' produced from the manhood of others, belong in truth to the father,
 ' from whose manhood they severally sprang, and to no other, *except*
 ' *by a just fiction of law*.

182. ' If, among several brothers of the whole blood, one have a son
 ' born, MENU pronounces them all fathers of a male child by means
 ' of that son ; *so that, if such nephew would be the heir, the uncles have no*
 ' *power to adopt sons* :

183. ' Thus

183. ‘ Thus if, among all the wives of the same husband, one bring
 ‘ forth a male child, MĒNU has declared them all, by means of that
 ‘ son, to be mothers of male issue.

184. ‘ On failure of the best, *and* of the *next* best, *among those twelve*
 ‘ *sons*, let the inferior in order take the heritage; but, if there be
 ‘ many of equal rank, let all be sharers of the estate.

185. ‘ Not brothers, nor parents, but sons, *if living, or their male*
 ‘ *issue*, are heirs to the deceased, but of him, who leaves no son, *nor*
 ‘ *a wife, nor a daughter*, the father shall take the inheritance; and, *if*
 ‘ *he leave neither father, nor mother*, the brothers.

186. ‘ To three *ancestors* must water be given at their obsequies; for
 ‘ three (*the father, his father, and the paternal grandfather*) is the
 ‘ funeral cake ordained: the fourth *in descent* is the giver of oblations
 ‘ *to them, and their heir, if they die without nearer descendants*; but the
 ‘ fifth has no concern *with the gift of the funeral cake*.

187. ‘ To the nearest *śapinda*, male or female, after him in the third
 ‘ degree, the inheritance *next* belongs; then, on failure of *śapindas* and
 ‘ of their issue, the *śamánódaca*, or distant kinsman, shall be the heir;
 ‘ or the spiritual preceptor, or the pupil, *or the fellowstudent, of the*
 ‘ *deceased*:

188. ‘ On failure of all those, the lawful heirs are such *Bráh-*
 ‘ *mens*, as have read the three *Védas*, as are pure *in body and mind*, as
 ‘ have subdued their passions; *and they must consequently offer the*
 ‘ *cake*: thus the rites of obsequies cannot fail.

189. ' The property of a *Bráhmén* shall never be taken *as an escheat*
' by the king; this is a fixed law: but the wealth of the other classes,
' on failure of all heirs, the king may take.

190. ' If the widow of a man, who died without a son, raise up a
' son to him by one of his kinsmen, let her deliver to that son, *at his*
' full age the collected estate of the deceased, whatever it be.

191. ' If two sons, begotten by two *successive husbands, who are*
' both dead, contend for their property, then in the hands of their
' mother, let each take, exclusively of the other, his own father's
' estate.

192. ' ON the death of the mother, let all the uterine brothers and
' the uterine sisters, *if unmarried*, equally divide the maternal estate:
' each married sister shall have a fourth part of a brother's allotment.

193. ' Even to the daughters of those daughters, it is fit, that some-
' thing should be given, from the assets of their maternal grandmother,
' on the score of natural affection.

194. ' WHAT was given before the nuptial fire, what was given on
' the bridal procession, what was given in token of love, and what was
' received from a brother, a mother, or a father, are considered as
' the sixfold *separate* property of a *married* woman:

195. ' What she received after marriage from the family of her hus-
' band, and what her affectionate lord may have given her, shall be in-
' herited, even if she die in his lifetime, by her children.

196. ' It

196. ' It is ordained, that the property of a woman, married by the ceremonies called *Brábma*, *Daiva*, *A'rsha*, *Gándharva*, or *Prájápatya*, shall go to her husband, if she die without issue.

197. ' But her wealth given on the marriage called *A'sura*, or on either of the *two* others, is ordained, on her death without issue, to become the property of her father and mother.

198. ' If a widow, *whose husband had other wives of different classes*, shall have received wealth at any time *as a gift* from her father, and shall die without issue, it shall go to the daughter of the *Brábman*'s wife, or to the issue of that daughter.

199. ' A woman should never make a hoard from the goods of her kindred, *which are common to her and many*; or even from the property of her lord, without his assent.

200. ' Such ornamental apparel, as women wear during the lives of their husbands, the heirs of those husbands shall not divide among themselves: they, who divide it among themselves, fall deep *into sin*.

201. ' Eunuchs and outcasts, persons born blind or deaf, madmen, idiots, the dumb, and such as have lost the use of a limb, are excluded from a share of the heritage;

202. ' But it is just, that the heir, who knows his duty, should give all of them food and raiment *for life* without stint, according to the best of his power: he, who gives them nothing, sinks assuredly *to a region of punishment*.

203. ' If

203. ' If the eunuch and the rest should at any time desire to marry,
' *and if the wife of the eunuch should raise up a son to him by a man legally*
' *appointed, that son and the issue of such, as have children, shall be*
' capable of inheriting.

204. ' After the death of the father, if the eldest brother acquire
' *wealth by his own efforts before partition, a share of that acquisition shall*
' go to the younger brothers, if they have made a due progress in
' learning ;

205. ' And if all of them, being unlearned, acquire property *before*
' *partition* by their own labour, there shall be an equal division of that
' property *without regard to the first born* ; for it was not the wealth of
' their father : this rule is clearly settled.

206. ' Wealth, however, acquired by learning, belongs exclusively
' to any one of them, who acquired it ; so does any thing given by a
' friend, received on account of marriage, or presented as a mark of
' respect to a guest.

207. ' If any one of the brethren has a competence from his own
' occupation, and wants not the property of his father, he may debar
' himself from his own share, some trifle being given him as a con-
' sideration, to prevent future strife.

208. ' What a brother has acquired by labour or skill, without using
' the patrimony, he shall not give up without his assent ; for it was
' gained by his own exertion :

209. ' And if a son, by his own efforts, recover a debt or property
' *unjustly detained*, which could not be recovered before by his father,
' he

‘ he shall not, unless by his free will, put it into parcenary with his
‘ brethren, since in fact it was acquired by himself.

210. If brethren, once divided and living again together as parce-
‘ ners, make a second partition, the shares must in that case be equal;
‘ and the first born shall have no right of deduction.

211. ‘ Should the eldest or youngest of several brothers be deprived
‘ of his share *by a civil death on his entrance into the fourth order*, or
‘ should any one of them die, his *vested interest in a share* shall not
‘ wholly be lost;

212. ‘ But, *if he leave neither son, nor wife, nor daughter, nor father, nor*
‘ *mother*, his uterine brothers and sisters, and such brothers as were re-
‘ united after a separation, shall assemble and divide his share equally.

213. ‘ Any eldest brother, who from avarice shall defraud his
‘ younger brother, shall forfeit *the honours of his primogeniture*, be de-
‘ prived of his own share, and pay a fine to the king.

214. ‘ All those brothers, who are addicted to any vice, lose their
‘ title to the inheritance: the first born shall not appropriate it to him-
‘ self, but shall give shares to the youngest, *if they be not vitious*.

215. ‘ If, among undivided brethren *living* with their father, there
‘ be a common exertion for common gain, the father shall never make
‘ an unequal division among them, *when they divide their families*.

216. ‘ A son, born after a division *in the lifetime of his father*, shall
‘ alone inherit the patrimony, or shall have a share of it with the di-
‘ vided brethren, if they return and unite themselves with him.

217. ‘ OF

217. ' OF a son, dying childless *and leaving no widow*, the father
 ' and mother shall take the estate; and, the mother also being dead,
 ' the paternal *grandfather and grandmother* shall take the heritage *on*
 ' *failure of brothers and nephews*.

218. ' When all the debts and wealth have been justly distributed
 ' according to law, any property, that may afterwards be discovered,
 ' shall be subject to a similar distribution.

219. ' Apparel, carriages, or riding horses, and ornaments *of ordinary*
 ' *value, which any of the heirs had used by consent before partition*, dressed
 ' rice, water *in a well or cistern*, female slaves, family priests, or spiri-
 ' tual counsellors, and pasture ground for cattle, the wife have de-
 ' clared indivisible, *and still to be used as before*.

220. ' Thus have the laws of inheritance, and the rule for the con-
 ' duct of sons (whether the son of the wife or others) been expound-
 ' ed to you in order; learn at present the law concerning games of
 ' chance.

221. ' GAMING, either with inanimate or with animated things,
 ' let the king exclude wholly from his realm: both those modes of play
 ' cause destruction to princes.

222. ' Such play with dice *and the like*, or by matches *between rams*
 ' *and cocks*, amounts to open theft; and the king must ever be vigilant
 ' in suppressing both *modes of play*:

223. ' Gaming with lifeless things is known among men by the
 ' name of *dyúta*; but *samáhwaya* signifies a match between living crea-
 ' tures.

224. ' Let

224. ' Let the king punish corporally at discretion both the gamester and the keeper of a gaming house, whether they play with inanimate or animated things; and men of the servile class, who wear the *string and other* marks of the twiceborn.

225. ' Gamesters, publick dancers and singers, revilers of scripture, open hereticks, men who perform not the duties of their several classes, and sellers of spirituous liquor, let him instantly banish from the town:

226. ' Those wretches, lurking like unseen thieves in the dominion of a prince, continually harass his good subjects with their vicious conduct.

227. ' Even in a former creation was this *vice of* gaming found a great provoker of enmity: let no sensible man, therefore, addict himself to play even for his amusement:

228. ' On the man addicted to it, either privately or openly, let punishment be inflicted at the discretion of the king.

229. ' A MAN of the military, commercial, or servile class, who cannot pay a fine, shall discharge the debt by his labour: a priest shall discharge it by little and little.

230. ' For women, children, persons of crazy intellect, the old, the poor, and the infirm, the king shall order punishment with a small whip, a twig, or a rope.

231. ' THOSE ministers, who are employed in publick affairs, and, inflamed by the blaze of wealth, mar the business of any person concerned, let the king strip of all their property.

232. ' Such,

232. ' Such, as forge royal edicts, cause dissensions among the great
' ministers, or kill women, priests, or children, let the king put to
' death; and such, as adhere to his enemies.

233. ' Whatever business has at any time been transacted conform-
' ably to law, let him consider as finally settled, and refuse to un-
' ravel;

234. ' But whatever business has been concluded illegally by his
' ministers or by a judge, let the king himself reexamine; and let
' him fine them each a thousand *panas*.

235. ' The slayer of a priest, a soldier or merchant drinking arak,
' or a priest drinking arak, mead, or rum, he, who steals the gold of a
' priest, and he, who violates the bed of his *natural or spiritual* father,
' are all to be considered respectively as offenders in the highest degree,
' *except those, whose crimes are not fit to be named:*

236. ' On such of those four, as have not actually performed an ex-
' piation, let the king legally inflict corporal punishment, together
' with a fine.

237. ' For violating the paternal bed, let *the mark of a female part*
' be impressed *on the forehead with hot iron*; for drinking spirits, a vint-
' ner's flag; for stealing sacred gold, a dog's foot; for murdering a
' priest, *the figure of a headless corpse*:

238. ' With none to eat with them, with none to sacrifice with
' them, with none to read with them, with none to be allied by mar-
' riage to them, abject and excluded from all social duties, let them
' wander over this earth:

239. ' Branded

239. ' Branded with *indelible* marks, they shall be deserted by
' their paternal and maternal relations, treated by none with af-
' fection, received by none with respect: such is the ordinance of
' MENU.

240. ' *Criminals* of all the classes, having performed an expiation, as
' ordained by law, shall not be marked on the forehead, but con-
' demned to pay the highest fine:

241. ' For crimes by a priest, *who had a good character before his of-
' fence*, the middle fine shall be set on him; or, *if his crime was pre-
' meditated*, he shall be banished from the realm, *taking with him* his
' effects and his family;

242. ' But men of the other classes, who have committed those
' crimes, *though without premeditation*, shall be stripped of all their pos-
' sessions; and, if their offence was premeditated, shall be corporally,
' or even capitally, punished, *according to circumstances*.

243. ' LET no virtuous prince appropriate the wealth of a criminal
' in the highest degree; for he, who appropriates it through covetous-
' ness, is contaminated with the same guilt:

244. ' Having thrown such a fine into the waters, let him offer it to
' VARUNA; or let him bestow it on some priest of eminent learning in
' the scriptures:

245. ' VARUNA is the lord of punishment; he holds a rod even over
' kings; and a priest, who has gone through the whole *Véda*, is *equal to*
' a sovereign of all the world.

246. ' Where the king abstains from receiving *to his own use* the
' wealth of such offenders, there children are born in due season and
' enjoy long lives ;

247. ' *There* the grain of husbandmen rises abundantly, as it was
' respectively sown ; there no younglings die, nor is one deformed
' animal born.

248. ' SHOULD a man of the basest class, with preconceived malice,
' give pain to *Bráhmens*, let the prince corporally punish him by va-
' rious modes, that may raise terror.

249. ' A king is pronounced equally unjust in releasing the man, who
' deserves punishment, and in punishing the man, who deserves it not :
' he is just, who always inflicts the punishment ordained by law.

250. ' These established rules for administering justice, between two
' litigant parties, have been propounded at length under eighteen
' heads.

251. ' THUS fully performing all duties required by law, let a king
' seek *with justice* to possess regions yet unpossessed, and, when they
' are in his possession, let him govern them well.

252. ' His realm being completely arranged and his fortresses amply
' provided, let him ever apply the most diligent care to eradicate *bad*
' *men resembling* thorny weeds, as the law directs.

253. ' By protecting such as live virtuously, and by rooting up such
' as live wickedly, those kings, whose hearts are intent on the secu-
' rity of their people, shall rise to heaven.

254. ' Of

254. ' Of that prince, who takes a revenue, without restraining
' rogues, the dominions are thrown into disorder, and himself shall be
' precluded from a celestial abode ;

255. ' But of him, whose realm, by the strength of his arm, is de-
' fended and free from terrour, the dominions continually flourish, like
' trees duly watered.

256. ' LET the king, whose emissaries are his eyes, discern well the
' two sorts of rogues, the open and the concealed, who deprive other
' men of their wealth :

257. ' Open rogues are they, who subsist by cheating in various
' marketable commodities ; and concealed rogues are they, who steal
' and rob in forests and the like secret places.

258. ' Receivers of bribes, extorters of money by threats, debasers
' of metals, gamesters, fortunetellers, imposters, and professors of
' palmistry ;

259. ' Elephantbreakers and quacks, not performing what they en-
' gage to perform, pretended artists, and subtil harlots ;

260. ' These and the like thorny weeds, overspreading the world,
' let the king discover with a quick sight, and others, who act ill
' in secret ; worthless men, yet bearing the outward signs of the
' worthy.

261. ' Having detected them, by the means of trusty persons dis-
' guised, who *pretend to* have the same occupation with them, and of
' spies

‘ spies placed in several stations, let him bring them by artifice into his
 ‘ power :

262. ‘ Then, having fully proclaimed their respective criminal acts,
 ‘ let the king inflict punishment legally, according to the crimes
 ‘ proved ;

263. ‘ Since, without certain punishment, it is impossible to restrain
 ‘ the delinquency of scoundrels with depraved souls, who secretly prowl
 ‘ over this earth.

264. ‘ Muchfrequented places, cisterns of water, bake houses, the
 ‘ lodgings of harlots, taverns and victualling shops, squares where four
 ‘ ways meet, large well known trees, assemblies, and publick spectacles ;

265. ‘ Old courtyards, thickets, the houses of artists, empty man-
 ‘ sions, groves, and gardens ;

266. ‘ These and the like places let the king guard, for the pre-
 ‘ vention of robberies, with soldiers, both stationary and patrolling, as
 ‘ well as with secret watchmen.

267. ‘ By the means of able spies, once thieves *but reformed*, who,
 ‘ well knowing the various machinations of rogues, associate with them
 ‘ and follow them, let the king detect and draw them forth :

268. ‘ On pretences of dainty food and gratifications, or of seeing
 ‘ some wise priest, *who could ensure their success*, or on pretence of *mock*
 ‘ *battles and the like* feats of strength, let the spies procure an assembly
 ‘ of those men.

269. ‘ Such

269. ' Such as refuse to go forth on those occasions, deterred by
' *former punishments, which the king had inflicted*, let him seize by
' force, and put to death, on proof of their guilt, with their friends
' and kinsmen, paternal and maternal, if proved to be their confe-
' derates.

270. ' Let not a just prince kill a man convicted of simple theft,
' unless taken with the mainer or with implements of robbery; but
' any thief, taken with the mainer, or with such implements, let him
' destroy without hesitation;

271. ' And let him slay all those, who give robbers food in towns,
' or supply them with implements, or afford them shelter.

272. ' Should those men, who are appointed to guard any districts,
' or those of the vicinity, who were employed for that purpose, be
' neutral in attacks by robbers and inactive in seizing them, let him
' instantly punish them as thieves.

273. ' Him, who lives *apparently* by the rules of his class, but *really*
' departs from those rules, let the king severely punish by fine, as a
' wretch, who violates his duty.

274. ' They, who give no assistance on the plundering of a town,
' on the forcible breaking of a dike, or on seeing a robbery on the
' highway, shall be banished with their cattle and utensils.

275. ' Men, who rob the king's treasure, or obstinately oppose his
' commands, let him destroy by various modes of just punishment;
' and those, who encourage his enemies.

276. ' Of

276. ' Of robbers, who break a wall or partition, and commit theft
' in the night, let the prince order the hands to be lopped off, and
' themselves to be fixed on a sharp stake.

277. ' Two fingers of a cutpurse, *the thumb and the index*, let him
' cause to be amputated on his first conviction; on the second, one
' hand and one foot; on the third, he shall suffer death.

278. ' Such, as give thieves fire, such as give them food, such as
' give them arms and apartments, and such as knowingly receive a
' thing stolen, let the king punish as *he would punish* a thief.

279. ' The breaker of a *dam to secure a pool*, let him punish by long
' immersion under water, or by keen corporal suffering; or the offender
' shall repair it, but must pay the highest mulct.

280. ' Those, who break open the treasury, or the arsenal, or the
' temple of a deity, and those, who carry off royal elephants, horses, or
' cars, let him without hesitation destroy.

281. ' He, who shall take away the water of an ancient pool, or
' shall obstruct a watercourse, must be condemned to pay the lowest
' usual amercement.

282. ' HE, who shall drop his ordure on the king's highway, ex-
' cept in case of necessity, shall pay two *panas* and immediately remove
' the filth;

283. ' But a person in urgent necessity, a very old man, a pregnant
' woman, and a child, only deserve reproof, and shall clean the place
' themselves: that is a settled rule.

284. ' ALL

284. ' ALL physicians and surgeons acting unskilfully in their several
' professions, must pay for *injury to* brute animals the lowest, but for
' *injury to* human creatures the middle, amercement.

285. ' THE breaker of a footbridge, of a publick flag, of a pali-
' fade, and of idols *made of clay*, shall repair what he has broken, and
' pay a mulct of five hundred *panas*.

286. ' FOR mixing impure with pure commodities, for piercing fine
' gems, as *diamonds or rubies*, and for boring *pearls or inferiour gems*
' improperly, the fine is the lowest of the three; *but damages must*
' *always be paid*.

287. ' THE man, who shall deal unjustly with purchasers at a fair
' price *by delivering goods of less value*, or shall sell at a high price
' *goods of ordinary value*, shall pay *according to circumstances*, the lowest
' or the middle amercement.

288. ' LET the king place all prisons near a public road, where of-
' fenders may be seen wretched or disfigured.

289. ' HIM, who breaks down a *publick* wall, him, who fills up a
' *publick* ditch, him, who throws down a *publick* gate, the king shall
' speedily banish.

290. ' FOR all sacrifices to destroy innocent men, the punishment is
' a fine of two hundred *panas*; and for machinations with *poisonous*
' roots, and for the various *charms and* witcheries *intended* to kill, by
' persons not effecting their purpose.

291. ' THE seller of bad grain for good, or of good seed placed at
' the top of the bag, to conceal the bad below, and the destroyer of known
' landmarks,

‘ landmarks, must suffer such corporal punishment as will disfigure
‘ them ;

292. ‘ But the most pernicious of all deceivers is a goldsmith, who
‘ commits frauds: the king shall order him to be cut piecemeal with
‘ razors.

293. ‘ For stealing implements of husbandry, weapons, and pre-
‘ pared medicines, let the king award punishment according to the
‘ time and according to their use.

294. ‘ THE king, and his council, his metropolis, his realm, his
‘ treasure, and his army, together with his ally, are the seven mem-
‘ bers of his kingdom ; whence it is called *Septánga* :

295. ‘ Among those seven members of a kingdom, let him con-
‘ sider the ruin of the first, and so forth in order, as the greatest ca-
‘ lamity ;

296. ‘ Yet, in a sevenparted kingdom here below, there is no su-
‘ premacy among the several parts, from any preeminence in useful
‘ qualities : but all the parts must reciprocally support each other, like
‘ the three staves of a holy mendicant :

297. ‘ In these and those acts, *indeed*, this and that member may
‘ be distinguished ; *and* the member, by which any affair is transacted,
‘ has the preeminence in that particular affair.

298. ‘ WHEN the king employs emissaries, when he exerts power,
‘ when he regulates publick business, let him invariably know both his
‘ own strength and that of his enemy,

299. ‘ With

299. ' With all *their several* distresses and vices : let him then begin
 ' his operations, having maturely considered the greater and less im-
 ' portance of *particular acts* :

300. ' Let him, *though frequently disappointed*, renew his operations,
 ' how fatigued soever, again and again ; since fortune always attends
 ' the man, who, *having begun well*, strenuously renews his efforts.

301. ' ALL the ages, called *Satya, Trétá, Dwápara*, and *Cali*, de-
 ' pend on the conduct of the king ; who is declared *in turn* to repre-
 ' sent each of those ages :

302. ' Sleeping, he is the *Cali* age ; waking, the *Dwápara* ; exerting
 ' himself in action, the *Trétá* ; living virtuously, the *Satya*.

303. ' Of INDRA, of SU'RYA, of PAVANA, of YAMA, of VARUNA,
 ' of CHANDRA, of AGNI, and of PRIT'HIVÌ, let the king emulate the
 ' power and attributes.

304. ' As INDRA sheds plentiful showers during the four rainy
 ' months, thus let him, acting like the regent of clouds, rain just
 ' gratifications over his kingdom :

305. ' As SU'RYA with strong rays draws up the water during eight
 ' months, thus let him, performing the function of the sun, gradually
 ' draw from his realm the legal revenue :

306. ' As PAVANA, when he moves, pervades all creatures, thus let
 ' him, imitating the regent of wind, pervade *all places* by his concealed
 ' emissaries :

307. ' As YAMA, at the appointed time, punishes friends and foes,
 ' *or those who revere, and those who contemn, him,* thus let the king, re-
 ' sembling the judge of departed spirits, punish offending subjects :

308. ' As VARUNA most assuredly binds the guilty in fatal cords,
 ' thus let him, representing the genius of water, keep offenders in
 ' close confinement :

309. ' When the people are no less delighted on seeing the king,
 ' than on seeing the full moon, he appears in the character of CHAN-
 ' DRA :

310. ' Against criminals let him ever be ardent in wrath, let him be
 ' splendid in glory, let him consume wicked ministers, thus emulating
 ' the functions of AGNI, regent of fire.

311. ' As PRIT'HIVI supports all creatures equally, thus a king, sus-
 ' taining all subjects, resembles in his office the goddess of earth.

312. ' Engaged in these duties and in others, with continual activity,
 ' let the king *above all things* restrain robbers, both in his own terri-
 ' tories and in those of other princes, *from which they come, or in which*
 ' *they seek refuge.*

313. ' LET him not, although in the greatest distress *for money,*
 ' provoke *Bráhmens* to anger *by taking their property;* for they, once
 ' enraged, could immediately *by sacrifices and imprecations* destroy him
 ' with his troops, elephants, horses and cars.

314. ' Who, without perishing, could provoke those holy men, by
 ' whom, *that is, by whose ancestors, under BRAHMA',* the alldevouring
 ' fire

‘ fire was created, the sea with waters not drinkable, and the moon
 ‘ with its wane and increase?

315. ‘ What prince could gain wealth by oppressing those, who, if
 ‘ angry, could frame other worlds and regents of worlds, could give
 ‘ being to new gods and mortals?

316. ‘ What man, desirous of life, would injure those, by the aid of
 ‘ whom, *that is, by whose oblations*, worlds and gods perpetually subsist;
 ‘ those, who are rich in the learning of the *Véda*?

317. ‘ A *Bráhmén*, whether learned or ignorant, is a powerful di-
 ‘ vinity; even as fire is a powerful divinity, whether consecrated or
 ‘ popular.

318. ‘ Even in places for burning the dead, the bright fire is un-
 ‘ defiled; and, when presented with clarified butter at *subsequent* sacri-
 ‘ fices, blazes again with extreme splendour:

319. ‘ Thus, although *Bráhméns* employ themselves in all sorts of
 ‘ mean occupation, they must invariably be honoured; for they are
 ‘ something transcendently divine.

320. ‘ Of a military man, who raises his arm violently on all occa-
 ‘ sions against the priestly class, the priest himself shall be the chastiser;
 ‘ since the soldier originally proceeded from the *Bráhmén*.

321. ‘ From the waters arose fire; from the priest, the soldier; from
 ‘ stone, iron: their allpenetrating force is ineffectual in the places,
 ‘ whence they respectively sprang.

322. ‘ The

322. ' The military class cannot prosper without the sacerdotal, nor
 ' can the sacerdotal be raised without the military: both classes, by
 ' cordial union, are exalted in this world and in the next.

323. ' SHOULD the king *be near his end through some incurable disease,*
 ' *he* must bestow on the priests all his riches accumulated from legal
 ' fines; and, having duly committed his kingdom to his son, let him
 ' seek death in battle, *or, if there be no war, by abstaining from food.*

324. ' Thus conducting himself, *and* ever firm in discharging his
 ' royal duties, let the king employ all his ministers in acts beneficial to
 ' his people.

325. ' These rules for the conduct of a military man having been
 ' propounded, let mankind next hear the rules for the commercial and
 ' fervile classes in due order.

326. ' LET the *Vaisya*, having been girt with his proper sacrificial
 ' thread, and having married an equal wife, be always attentive to his
 ' business *of agriculture and trade*, and to that of keeping cattle;

327. ' Since the lord of created beings, having formed herd, and
 ' flocks, intrusted them to the care of the *Vaisya*, while he intrusted
 ' the whole human species to the *Bráhmén* and the *Cshatriya*:

328. ' Never must a *Vaisya* be disposed to say, " I keep no cattle;"
 ' nor, he being willing to keep them, must they by any means be kept
 ' by men of another class.

329. ' Of gems, pearls, and coral, of iron, of woven cloth, of per-
 ' fumes and of liquids, let him well know the prices both high and low:

330. ' Let him be skilled likewise in *the time and manner of sowing*
' feeds, and in the bad or good qualities of land ; let him also perfectly
' know the correct modes of measuring and weighing,

331. ' The excellence or defects of commodities, the advantages and
' disadvantages of different regions, the probable gain or loss on vendi-
' ble goods, and the means of breeding cattle with large augmenta-
' tion :

332. ' Let him know the just wages of servants, the various dialects
' of men, the best way of keeping goods, and *whatever else belongs to*
' purchase and sale.

333. ' Let him apply the most vigilant care to augment his wealth
' by *performing* his duty ; and, with great solicitude, let him give
' nourishment to all sentient creatures.

334. ' SERVILE attendance on *Bráhmens* learned in the *Véda*, chiefly
' on such as keep house and are famed for virtue, is of itself the
' highest duty of a *Súdra*, and leads him to future beatitude :

335. ' Pure *in body and mind*, humbly serving the three higher classes,
' mild in speech, never arrogant, ever seeking refuge in *Bráhmens*
' principally, he may attain the most eminent class *in another transmi-*
' *gration*.

336. ' THIS clear system of duties has been promulgated for the four
' classes, when they are not in distress for subsistence ; now learn in
' order their several duties in times of necessity.'

220. Let him know the just value of the various things, and as to the **CHARACTER OF THE THING**, let him know the correct mode of measuring and weighing.

On the moral Character, and on Taste of Discreet

221. The exercise of the moral character, and the taste of the virtuous, is the advantage of the virtuous, and the disadvantage of the vicious. The virtuous, and the means of becoming virtuous, are the goods, and the means of becoming virtuous, are the goods.

222. Let him know the just value of the various things, and as to the **CHARACTER OF THE THING**, let him know the correct mode of measuring and weighing. Let him know the just value of the various things, and as to the **CHARACTER OF THE THING**, let him know the correct mode of measuring and weighing.

223. Let him apply the most vigilant care to acquire his wealth, by every way his duty; and, with great solicitude, let him give to the virtuous, and the means of becoming virtuous, are the goods, and the means of becoming virtuous, are the goods.

224. Let him know the just value of the various things, and as to the **CHARACTER OF THE THING**, let him know the correct mode of measuring and weighing. Let him know the just value of the various things, and as to the **CHARACTER OF THE THING**, let him know the correct mode of measuring and weighing.

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CHAPTER THE TENTH.

On the mixed Classes; and on Times of Distress.

1. ‘LET the three twiceborn classes, remaining firm in their several duties, carefully read the *Véda*; but a *Bráhmen* must explain it to them, not *a man* of the other two *classes*: this is an established rule.

2. ‘The *Bráhmen* must know the means of subsistence ordained by law for all the classes, and must declare them to the rest: let himself likewise act in conformity to law.

3. ‘From priority of birth, from superiority of origin, from a more exact knowledge of scripture, and from a distinction in the sacrificial thread, the *Bráhmen* is the lord of all classes.

4. ‘The three twiceborn classes are the sacerdotal, the military, and the commercial; but the fourth, or servile, is onceborn, *that is, has no second birth from the gáyatrí, and wears no thread*: nor is there a fifth pure class.

5. ‘IN all classes they, and they only, who are born, in a direct order, of wives equal in class and virgins at the time of marriage, are to be considered as the same in class *with their fathers*:

6. ‘Sons,

6. ‘ Sons, begotten by twiceborn men, on women of the clafs next
 ‘ immediately below them, wife legislators call fimilar, *not the fame*, in
 ‘ clafs *with their parents*, becaufe they are degraded, *to a middle rank*
 ‘ *between both*, by the lownefs of their mothers: *they are named in order*,
 ‘ Múrdhábhifhiċta, Máhiſhya, and Carana, or Cáyaſt’ha; and their ſe-
 ‘ veral employments are teaching military exerciſes; muſick, aſtronomy, and
 ‘ keeping berds; and attendance on princes.

7. ‘ Such is the primeval rule for the ſons of women one degree
 ‘ lower *than their huſbands*: for the ſons of women two or three de-
 ‘ grees lower, let this rule of law be known.

8. ‘ From a Brábhmen, on a wife of the Vaiſya clafs, is born a ſon
 ‘ called Ambaſt’ha, or Vaidya, on a Súdra wife a Niſháda, named alſo
 ‘ Páraſava:

9. ‘ From a Cſhatriya, on a wife of the Súdra clafs, ſprings a crea-
 ‘ ture, called Ugra, with a nature partly warlike and partly ſervile,
 ‘ ferocious in his manners, cruel in his acts.

10. ‘ The ſons of a Brábhmen by *women of three lower claſſes*, of a
 ‘ Cſhatriya by *women of two*, and of a Vaiſya by *one lower clafs*, are
 ‘ called *apaſadáb*, or degraded *below their fathers*.

11. ‘ From a Cſhatriya, by a Brábhmen’s wife, ſprings a Súta by birth;
 ‘ from a Vaiſya, by a military or ſacerdotal wife, ſpring a Mágadha
 ‘ and a Vaidéha.

12. ‘ From a Súdra, on women of the commercial, military, and
 ‘ prieſtly claſſes, are born ſons of a mixed breed, called *A’yógava*,
 ‘ Cſhattri, and Chandála, the loweſt of mortals.

13. ‘ As

13. ' As the *Ambasht'ha* and *Ugra*, born in a direct order with one
' class between *those of their parents*, are considered in law, so are the
' *Cshattri* and the *Vaidéha*, born in an inverse order *with one inter-*
' *mediate class* ; and all four may be touched without impurity.

14. ' Those sons of the twiceborn, who are begotten on women
' without an interval (*Antara*) between the classes mentioned in order,
' the wife call *Anantaras*, giving them a *distinct* name from the lower
' degree of their mothers.

15. ' From a *Bráhmen*, by a girl of the *Ugra* tribe, is born an
' *A'vrita* ; by one of the *Ambasht'ha* tribe, and *A'bhira* ; by one of the
' *A'yógava* tribe, a *Dhigvana*.

16. ' The *A'yógava*, the *Cshattri*, and the *Chandála*, the lowest of
' men, spring from a *Súdra* in an inverse order *of the classes*, and are,
' *therefore*, all three excluded *from the performance of obsequies to their*
' *ancestors* :

17. ' From a *Vaisya* the *Mágadha* and *Vaidéha*, from a *Cshatriya* the
' *Súta* only, are born in an inverse order ; and they are three other
' sons excluded *from funeral rites to their fathers*.

18. ' The son of a *Nisháda*, by a woman of the *Súdra* class, is by
' tribe a *Puccasa* ; but the son of a *Súdra* by a *Nishádi* woman, is
' named *Cuccutaca*.

19. ' One, born of a *Cshattri* by an *Ugrá*, is called *Swapáca* ; and
' one, begotten by a *Vaidéha* on an *Ambasht'hi* wife, is called *Véna*.

20. ' Those, whom the twiceborn beget on women of equal classes,
' but who perform not the proper ceremonies *of assuming the thread,*
' *and the like,* people denominate *Vrátyas*, or excluded from the
' *gáyatri*.

21. ' From such an outcast *Bráhmen* springs a son of a sinful nature,
' *who in different countries is* named a *Bhúrjacantaca*, an *A'vantya*, a
' *Vátadhána*, a *Pushpadha*, and a *Saic'ha*:

22. ' From such an outcast *Cshatriya* comes a son called a *J'halla*,
' a *Malla*, a *Nich'hivi*, a *Nata*, a *Carana*, a *C'hasa*, and a *Dravira*:

23. ' From such an outcast *Vaisya* is born a son called *Sudhanwan*,
' *Chárya*, *Cárusa*, *Vijanman*, *Maitra*, and *Satwata*.

24. ' By intermixtures of the classes, by their marriages with wo-
' men who ought not to be married, and by their omission of pre-
' scribed duties, impure classes have been formed.

25. ' THOSE men of mingled births, who were born in the inverse
' order of classes, and who intermarry among themselves, I will now
' compendiously describe.

26. ' The *Súta*, the *Vaidéha*, and the *Chandála*, that lowest of mor-
' tals, the *Mágadha*, the *Cshattri* by tribe, and the *A'yógava*,

27. ' These six beget similar sons on women of their own classes, or
' on women of the same class with their mothers; and they produce
' the like from women of the two highest classes, *and of the lowest*:

28. ' As

28. ' As a twiceborn son may spring from a *Bráhmén* by women
 ' of two classes out of three, a *similar son*, when there is no interval,
 ' and an *equal son* from a woman of his own class, it is thus in the case
 ' of the low tribes in order.

29. ' Those six beget, on women of their own tribes, reciprocally,
 ' very many despicable and abject races even more foul than their
 ' begetters.

30. ' Even as a *Súdra* begets, on a *Bráhmén* woman, a son more vile
 ' than himself, thus any other low man begets, on *woman* of the four
 ' classes, a son yet lower.

31. ' The six low classes, marrying inversely, beget fifteen yet
 ' lower tribes, the base producing still baser; and in a direct order they
 ' produce fifteen more.

32. ' A *Dasyu*, or outcast of any pure class, begets on an *A'yógaví*
 ' woman a *Sairindhra*, who should know how to attend and to dress
 ' his master; though not a slave, he must live by slavish work, and
 ' may also gain subsistence by catching wild beasts in toils:

33. ' A *Vaidéha* begets on her a sweetvoiced *Maitréyaca*, who,
 ' ringing a bell at the appearance of dawn, continually praises great
 ' men:

34. ' A *Nisháda* begets on her a *Márgava*, or *Dása*, who subsists by his
 ' labour in boats, and is named *Caiverta* by those, who dwell in *A'ryá-*
 ' *verta*, or the land of the venerable.

35. ' Those

35. ' Those three of a base tribe are severally begotten on *A'yógavi* women, who wear the clothes of the deceased and eat reprehensible food.

36. ' From a *Nisháda* springs by a woman of the *Vaidéha* tribe, a *Cárávára*, who cuts leather, and from a *Vaidéha* spring by women of the *Cárávára* and *Nisháda* casts, an *Andhra* and a *Méda*, who must live without the town.

37. ' From a *Chandála*, by a *Vaidébì* woman, comes a *Pándusópáca*, who works with cane and reeds; and from a *Nisháda*, an *Abindica*, who acts as a jailor.

38. ' From a *Chandála*, by a *Puccasì* woman, is born a *Sópáca*, who lives by punishing criminals condemned by the king, a sinful wretch ever despised by the virtuous.

39. ' A *Nishádì* woman, by a *Chandála*, produces a son called *Antya-vasayin*, employed in places for burning the dead, contemned even by the contemptible.

40. ' These, among various mixed classes, have been described by their several fathers and mothers; and, whether concealed or open, they may be known by their occupations.

41. ' Six sons, *three* begotten on women of the same class, and *three* on women of lower classes, must perform the duties of twiceborn men; but those, who are *born in an inverse order*, and called lowborn, are equal, in respect of duty, to mere *Súdras*.

42. ' By

42. ' By the force of extreme devotion and of exalted fathers, all
' of them may rise *in time* to high birth, as *by the reverse* they may
' sink to a lower state, in every age among mortals in this inferiour
' world.

43. ' THE following races of *Cshatriyas*, by their omission of holy
' rites and by seeing no *Bráhmens*, have gradually sunk among men
' to the lowest of the four classes :

44. ' *Paund'racas*, *Odras*, and *Draviras* ; *Cámbójas*, *Yavanas*, and
' *Sacas* ; *Páradas*, *Pablavas*, *Chinas*, *Cirátas*, *Deradas*, and *C'hasas*.

45. ' All those tribes of men, who sprang from the mouth, the arm,
' the thigh, and the foot of BRAHMA', *but* who became outcasts *by*
' *having neglected their duties*, are called *Dasyus*, or *plunderers*, whether
' they speak the language of *Mléchch'has*, or that of *A'ryas*.

46. ' THOSE sons of the twiceborn, who are said to be degraded,
' and who are considered as lowborn, shall subsist only by such employ-
' ments, as the twiceborn despise.

47. ' *Sútas* must live by managing horses and by driving cars ;
' *Ambasht'has*, by curing disorders ; *Vaidéhas*, by waiting on women ;
' *Mágadhas*, by travelling with merchandize ;

48. ' *Nishádas*, by catching fish ; an *A'yógava*, by the work of a car-
' penter ; a *Méda*, an *Andhra*, and (the sons of a *Bráhmen* by wives of
' the *Vaidéha* and *Ugra* classes, respectively called) a *Chunchu* and a
' *Madgu*, by slaying beasts of the forest ;

49. ' A

49. ' A *Cshattri*, an *Ugra*, and a *Puccasa*, by killing or confining
 ' such animals as live in holes: *Dhigvanas*, by felling leather; *Vénas*,
 ' by striking musical instruments :

50. ' Near large publick trees, in places for burning the dead, on
 ' mountains, and in groves, let those tribes dwell, generally known,
 ' and engaged in their several works.

51. ' THE abode of a *Chandála* and a *Swapáca* must be out of the
 ' town; they must not have the use of entire vessels; their sole wealth
 ' must be dogs and asses:

52. ' Their clothes must be the mantles of the deceased; their dishes
 ' for food, broken pots; their ornaments, rusty iron; continually must
 ' they roam from place to place:

53. ' Let no man, who regards his duty religious and civil, hold
 ' any intercourse with them; let their transactions be confined to
 ' themselves, and their marriages only between equals:

54. ' Let food be given to them in pottsherds, but not by the hands
 ' of the giver; and let them not walk by night in cities or towns:

55. ' By day they may walk about for the purpose of work, distin-
 ' guished by the king's badges; and they shall carry out the corpse of
 ' every one, who dies without kindred: such is the fixed rule.

56. ' They shall always kill those, who are to be slain by the sentence
 ' of the law, and by the royal warrant; and let them take the clothes
 ' of the slain, their beds, and their ornaments.

57. ' HIM,

57. ' HIM, who was born of a sinful mother, *and consequently* in
' a low class, but is not openly known, who, though worthless in
' truth, bears the semblance of a worthy man, let people discover by his
' acts :

58. ' Want of virtuous dignity, harshness of speech, cruelty, and
' habitual neglect of prescribed duties, betray in this world the son
' of a criminal mother.

59. ' Whether a man of debased birth assume the character of his
' father or of his mother, he can at no time conceal his origin :

60. ' He, whose family had been exalted, but whose parents were
' criminal in marrying, has a base nature, according as the offence *of*
' his mother was great or small.

61. ' In whatever country such men are born, as destroy the purity
' of the four classes, that country soon perishes together with the na-
' tives of it.

62. ' Desertion of life, without reward, for the sake of preserving a
' priest or a cow, a woman or a child, may cause the beatitude of those
' baseborn tribes.

63. ' Avoiding all injury *to animated beings*, veracity, abstinence
' from theft, *and from unjust seizure of property*, cleanliness, and com-
' mand over the bodily organs, form the compendious system of duty,
' which MENU has ordained for the four classes.

64. ' SHOULD the tribe sprung from a *Bráhmén*, by a *Súdra* woman,
' produce a *succession of children* by the marriages of its women with
' other

‘ other *Bráhmens*, the low tribe shall be raised to the highest in the
 ‘ seventh generation.

65. ‘ As the son of a *Súdra* may thus attain the rank of a *Bráhmen*,
 ‘ and as the son of a *Bráhmen* may sink to a level with *Súdras*, even so
 ‘ must it be with him, who springs from a *Cshatriya*; even so with
 ‘ him, who was born of a *Vaisya*.

66. ‘ If there be a doubt, as to the preference between him, who
 ‘ was begotten by a *Bráhmen* for his pleasure, *but not in wedlock*, on a
 ‘ *Súdra* woman, and him, who was begotten by a *Súdra* on a *Bráb-*
 ‘ *meni*,

67. ‘ Thus is it removed: he, who was begotten by an exalted man
 ‘ on a base woman, may by his good acts become respectable; but he,
 ‘ who was begotten on an exalted woman by a base man, must himself
 ‘ continue base:

68. ‘ Neither of the two (as the law is fixed) shall be girt with a
 ‘ sacred string; not the former, because his mother was low; nor the
 ‘ second, because the order of the classes was inverted.

69. ‘ As good grain, springing from good soil, is in all respects ex-
 ‘ cellent, thus a man, springing from a respectable father by a re-
 ‘ spectable mother, has a claim to the whole institution of the twice-
 ‘ born.

70. ‘ Some sages give a preference to the grain; others to the field;
 ‘ and others consider both field and grain; on this point the decision
 ‘ follows:

71. ‘ Grain,

71. ' Grain, cast into bad ground, wholly perishes, and a good field
' with no grain sown in it, is a mere heap of clods ;

72. ' But since, by the virtue of eminent fathers, even the sons of
' wild animals, as *Rishyafringa*, and others, have been transformed
' into holy men revered and extolled, the paternal side, therefore,
' prevails.

73. ' BRAHMA' himself, having compared a *Súdra*, who performs
' the duties of the twiceborn, with a twiceborn man, who does
' the acts of a *Súdra*, said : " Those two are neither equal nor un-
" equal," that is, they are neither equal in rank, nor unequal in bad
' conduct.

74. ' LET such *Bráhmens* as are intent on the means of attaining the
' supreme godhead, and firm in their own duties, completely perform
' in order, the six following acts :

75. ' Reading the *Védas*, and teaching others to read them, sacri-
' ficing, and assisting others to sacrifice, giving to the poor, if themselves
' have enough, and accepting gifts from the virtuous, if themselves are
' poor, are the six prescribed acts of the firstborn class ;

76. ' But, among those six acts of a *Bráhmen*, three are his means of
' subsistence ; assisting to sacrifice, teaching the *Védas*, and receiving
' gifts from a purehanded giver.

77. ' Three acts of duty cease with the *Bráhmen*, and belong not to
' the *Cshatriya* ; teaching the *Védas*, officiating at a sacrifice, and,
' thirdly, receiving presents :

78. ' Those *three* are also (by the fixed rule of law) forbidden to the
' *Vaishya*; since MENU, the lord of all men, prescribed not those acts
' to the two *classes*, *military and commercial*.

79. ' The means of subsistence, peculiar to the *Chatriya*, are bearing
' arms, either held for striking or missile; to the *Vaishya*, merchandize,
' attending on cattle, and agriculture: but *with a view to the next life*
' the duties of both are almsgiving, reading, sacrificing.

80. ' Among the several occupations *for gaining a livelihood* the most
' commendable respectively for the sacerdotal, military, and mercantile
' classes, are teaching the *Veda*, defending the people, and commerce
' or keeping herds and flocks.

81. ' Yet a *Bráhmén*, unable to subsist by his duties just mentioned,
' may live by the duty of a soldier; for that is the next in rank.

82. ' If it be asked, how he must live, should he be unable to get
' a subsistence by either of those employments; *the answer is*, he may
' subsist as a mercantile man, applying himself *in person* to tillage and
' attendance on cattle:

83. ' But a *Bráhmén* and a *Chatriya*, obliged to subsist by the acts
' of a *Vaishya*, must avoid with care, *if they can live by keeping herds*, the
' business of tillage, which gives great pain *to sentient creatures*, and
' is dependant on *the labour of others*, *as bulls and so forth*.

84. ' Some are of opinion, that agriculture is excellent; but it is a
' mode of subsistence, which the benevolent greatly blame; for the
' ironmouthed pieces of wood not only wound the earth, but the
' creatures dwelling in it.

85. ' If,

85. ' If, through want of a virtuous livelihood, they cannot follow
 ' laudable occupations, they may then gain a competence of wealth by
 ' selling commodities usually sold by merchants, avoiding what ought
 ' to be avoided :

86. ' They must avoid selling liquids of all sorts, dressed grain, feeds
 ' of *tila*, stones, salt, cattle, and human creatures ;

87. ' All woven cloth dyed red, cloth made of *sana*, of *cshumá* bark,
 ' and of wool, even though not red ; fruit, roots, and medicinal plants ;

88. ' Water, iron, poison, fleshmeat, the moonplant, and perfumes
 ' of any sort ; milk, honey, buttermilk, clarified butter, oil of *tila*,
 ' wax, sugar, and blades of *cus'a*-grass ;

89. ' All beasts of the forest, *as deer and the like* ; ravenous beasts,
 ' birds, *and fish* ; spirituous liquors, *níli*, or indigo, and *lácshá*, or lac ;
 ' and all beasts with uncloven hoofs.

90. ' But the *Bráhmén* husbandman may at pleasure sell pure *tila*
 ' feeds for the purpose of holy rites, if he keep them not long *with a*
 ' *hope of more gain*, and shall have produced them by his own culture :

91. ' If he apply feeds of *tila* to any purpose but food, anointing,
 ' and sacred oblations, he shall be plunged, in the shape of a worm,
 ' together with his parents, into the ordure of dogs.

92. ' By selling fleshmeat, *lácshá*, or salt, a *Bráhmén* immediately
 ' sinks low ; by selling milk three days, he falls to a level with a
 ' *Súdra* ;

93. ' And

93. ' And by felling the other forbidden commodities with his own
' free will, he assumes in this world, after seven nights, the nature of
' a mere *Vaisya*.

94. ' Fluid things may, however, be bartered for other fluids, but
' not salt for any thing liquid; so may dressed grain for grain undressed,
' and *tila* seeds for grain in the husk, equal weights or measures being
' given and taken.

95. ' A MILITARY man, in distress, may subsist by all these means,
' but at no time must he have recourse to the highest, or *sacerdotal*,
' function.

96. ' A man of the lowest class, who, through covetousness, lives by
' the acts of the highest, let the king strip of all his wealth and in-
' stantly banish:

97. ' His own office, though defectively performed, is preferable to
' that of another, though performed completely; for he, who *without*
' necessity discharges the duties of another class, immediately forfeits his
' own.

98. ' A MERCANTILE man, unable to subsist by his own duties, may
' descend even to the servile acts of a *Súdra*, taking care never to do
' what ought never to be done; but, when he has gained a compe-
' tence, let him depart from service.

99. ' A MAN of the fourth class, not finding employment by wait-
' ing on the twiceborn, while his wife and son are tormented with
' hunger, may subsist by handicrafts:

100. ' Let

100. ' Let him principally follow those mechanical occupations, as
' *joinery and masonry*, or those various practical arts, as *painting and*
' *writing*, by following which, he may serve the twiceborn.

101. ' SHOULD a *Bráhmen*, afflicted and pining through want of
' food, choose rather to remain fixed in the path of his own duty, than
' to adopt the practice of *Vaisyas*, let him act in this manner :

102. ' The *Bráhmen*, having fallen into distress, may receive gifts
' from any person whatever ; for by no sacred rule can it be shown,
' that absolute purity can be sullied.

103. ' From interpreting the *Véda*, from officiating at sacrifices, or
' from taking presents, though in modes generally disapproved, no sin is
' committed by priests *in distress* ; for they are as pure as fire or water.

104. ' He, who receives food, when his life could not otherwise be
' sustained, from any man whatever, is no more tainted by sin, than
' the subtil ether by mud :

105. ' AJI'GARTA, dying with hunger, was going to destroy his own
' son (named S'UNAH-S'E'P'HA) by selling him for some cattle ; yet he was
' guilty of no crime, since he only sought a remedy against famishing :

106. ' VAMADE'VA, who well knew right and wrong, was by no
' means rendered impure, though desirous, when oppressed *with hunger*,
' of eating the flesh of dogs for the preservation of his life :

107. ' BHARADWA'JA, eminent in devotion, when he and his son
' were almost starved in a dreary forest, accepted several cows from the
' carpenter VRĪDHU :

108. ' VISWA'MITRA

108. ' VISWA'MITRA too, than whom none better knew the distinctions between virtue and vice, resolved, when he was perishing with hunger, to eat the haunch of a dog, which he had received from a *Chandála*.

109. ' Among *the* acts generally disapproved, namely, accepting presents from low men, assisting them to sacrifice, and explaining the scripture to them, the receipt of presents is the meanest in this world, and the most blamed in a *Bráhma*n after his present life ;

110. ' Because assisting to sacrifice and explaining the scripture are two acts always performed for those, whose minds have been improved by the sacred initiation ; but gifts are also received from a vile man of the lowest class.

111. ' The guilt, incurred by assisting low men to sacrifice and by teaching them the scripture, is removed by repetitions of the *gáyatrí* and oblations to fire ; but that, incurred by accepting gifts from them, is expiated only by abandoning the gifts and by rigorous devotion.

112. ' It were better for a *Bráhma*n, who could not maintain himself, to glean ears and grains after harvest from *the* field of any person whatever : gleaning whole ears would be better than accepting a present, and picking up single grains would be still more laudable.

113. ' *Bráhm*ens, who keep house, and are in want of any metals except gold and silver, or of other articles for good uses, may ask the king for them, if he be of the military class ; but a king, known to be avaricious and unwilling to give, must not be solicited.

114. ' The

114. ' The foremost, *in order*, of these things may be received more
' innocently than that, which follows it : a field untilled, a tilled field,
' cows, goats, sheep, precious metals or gems, new grain, dressed grain.

115. ' THERE are seven virtuous means of acquiring property ; suc-
' cession, occupancy or donation, and purchase or exchange, *which are*
' *allowed to all classes* ; conquest, *which is peculiar to the military class* ;
' lending at interest, husbandry or commerce, *which belong to the mer-*
' *cantile class* ; and acceptance of presents, *by the sacerdotal class*, from
' respectable men.

116. ' Learning, *except that contained in the scriptures*, art, *as mixing*
' *perfumes and the like*, work for wages, menial service, attendance on
' cattle, traffick, agriculture, content with little, alms, and receiving
' high interest on money, are ten modes of subsistence *in times of distress*.

117. ' Neither a priest nor a military man, *though distressed*, must
' receive interest on loans ; but each of them, if he please, may pay
' *the small interest permitted by law, on borrowing* for some pious use, to
' the sinful man, *who demands it*.

118. ' A MILITARY king, who takes even a fourth part *of the crops*
' *of his realm* at a time of urgent necessity, *as of war or invasion*, and
' protects his people to the utmost of his power, commits no sin :

119. ' His peculiar duty is conquest, and he must not recede from
' battle ; so that, while he defends by his arms the merchant and
' husbandman, he may levy the legal tax *as the price of protection*.

120. ' The tax on the mercantile class, *which in times of prosperity*
' *must be only a twelfth part of their crops, and a fiftieth of their personal*
' *profits,*

‘ *profits*, may be an eighth of their crops *in a time of distress, or a sixth, which is the medium, or even a fourth in great publick adversity*; but a twentieth of their *gains on money, and other moveables, is the highest tax*: serving men, artifans, and mechanicks must assist by their labour, *but at no time pay taxes.*

121. ‘ If a *Súdra* want a subsistence *and cannot attend a priest*, he may serve a *Çhatriya*; or, *if he cannot wait on a soldier by birth*, he may gain his livelihood by serving an opulent *Vaisya*.

122. ‘ To him, who serves *Bráhmens* with a view to a heavenly reward, or even with a view to both *this life and the next*, the union of the word *Bráhmen* with his *name of servant* will assuredly bring success.

123. ‘ Attendance on *Bráhmens* is pronounced the best work of a *Súdra*: whatever else he may perform will comparatively avail him nothing.

124. ‘ They must allot him a fit maintenance according to their own circumstances, after considering his ability, his exertions, and the number of those, whom he must provide with nourishment:

125. ‘ What remains of their dressed rice must be given to him; and apparel which they have worn, and the refuse of their grain, and their old household furniture.

126. ‘ THERE is no guilt in a man of the servile class, *who eats leeks and other forbidden vegetables*: he must not have the sacred investiture: he has no business with *the duty of making oblations to fire and the like*; but there is no prohibition against *his offering dressed grain as a sacrifice, by way of discharging his own duty.*

127. ‘ Even

127. ‘ Even *Súdras*, who are anxious to perform their entire duty,
 ‘ and, knowing what they should perform, imitate the practice of good
 ‘ men *in the household sacraments*, but without any holy text, *except*
 ‘ those containing praise and salutation, are so far from sinning, that they
 ‘ acquire just applause :

128. ‘ As a *Súdra*, without injuring another man, performs the *law-*
 ‘ ful acts of the twiceborn, even thus, without being censured, he
 ‘ gains exaltation in this world and in the next.

129. ‘ No *superfluous* collection of wealth must be made by a *Súdra*,
 ‘ even though he has power to make it, since a servile man, who has
 ‘ amassed riches, becomes proud, and, by his insolence or neglect, gives
 ‘ pain even to *Bráhmens*.

130. ‘ SUCH, as have been fully declared, are the several duties of
 ‘ the four classes in distress for subsistence ; and, if they perform them
 ‘ exactly, they shall attain the highest beatitude.

131. ‘ Thus has been propounded the system of duties, religious and
 ‘ civil, ordained for all classes : I next will declare the pure law of ex-
 ‘ piation for sin.’

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CHAPTER THE ELEVENTH.

On Penance and Expiation.

1. ‘ **H**IM, who intends to marry for the sake of having issue; him,
 ‘ who wishes to make a sacrifice; him, who travels; him, who has
 ‘ given all his wealth at a sacred rite; him, who desires to maintain
 ‘ his preceptor, his father, or his mother; him, who needs a main-
 ‘ tenance for himself, when he first reads the *Véda*s, and him, who is
 ‘ afflicted with illness;

2. ‘ These nine *Bráhmens* let mankind consider as virtuous mendi-
 ‘ cants, called *śnátacas*; and, to relieve their wants, let gifts of *cattle*
 ‘ or *gold* be presented to them in proportion to their learning:

3. ‘ To these most excellent *Bráhmens* must rice also be given with
 ‘ holy presents *at oblations to fire and within the consecrated circle*; but
 ‘ the dressed rice, which others are to receive, must be delivered on
 ‘ the outside of the sacred hearth: *gold and the like may be given any*
 ‘ *where.*

4. ‘ On such *Bráhmens*, as well know the *Véda*, let the king bestow,
 ‘ as it becomes him, jewels of all sorts, and the solemn reward for
 ‘ officiating at the sacrifice.

5. ‘ **H**E,

5. ' HE, who has a wife, and, having begged money *to defray his*
' *nuptial expences*, marries another woman, shall have no advantage
' but sensual enjoyment : the offspring belongs to the bestower of the
' gift.

6. ' LET every man, according to his ability, give wealth to *Bráb-*
' *mens* detached from the world and learned in scripture : such a giver
' shall attain heaven after this life.

7. ' HE alone is worthy to drink the juice of the moonplant, who
' keeps a provision of grain sufficient to supply those, whom the law
' commands him to nourish, for the term of three years or more;

8. ' But a twiceborn man, who keeps a less provision of grain, yet
' presumes to taste the juice of the moonplant, shall gather no fruit
' from that sacrament, even though he taste it at the first, *or solemn,*
' *much less at any occasional*, ceremony.

9. ' HE, who bestows gifts on strangers *with a view to worldly*
' *fame*, while he suffers his family to live in distress, though he has
' power *to support them*, touches his lips with honey, but swallows
' poison ; such virtue is counterfeit :

10. ' Even what he does for the sake of his future spiritual body,
' to the injury of those, whom he is bound to maintain, shall bring him
' ultimate misery both in this life and in the next.

11. ' SHOULD a sacrifice, performed by any twiceborn sacrificer, and
' by a *Brábmén* especially, be imperfect from the want of some in-
' gredient, during the reign of a prince, who knows the law,

12. ' Let

12. ‘ Let him take that article, for the completion of the sacrifice,
 ‘ from the house of any *Vaisya*, who possesses considerable herds, but
 ‘ neither sacrifices, nor drinks the juice of the moonplant :

13. ‘ If such a *Vaisya* be not near, he may take two or three such
 ‘ necessary articles at pleasure from the house of a *Súdra* ; since a *Súdra*
 ‘ has no business with solemn rites.

14. ‘ Even from the house of a *Bráhmen* or a *Cshatriya*, who possesses
 ‘ a hundred cows, but has no consecrated fire, or a thousand cows, but
 ‘ performs no sacrifice *with the moonplant*, let a priest without scruple
 ‘ take *the articles wanted*.

15. ‘ From another *Bráhmen*, who continually receives presents but
 ‘ never gives, let him take such ingredients of the sacrifice, if not be-
 ‘ stowed *on request* : so shall his fame be spread abroad, and his habits
 ‘ of virtue increase.

16. ‘ Thus, likewise, may a *Bráhmen*, who has not eaten at the time
 ‘ of six meals, *or has fasted three whole days*, take at the time of the
 ‘ seventh meal, *or on the fourth morning*, from the man, who behaves
 ‘ basely *by not offering him food*, enough to supply him till the morrow :

17. ‘ He may take it from the floor, where the grain is trodden out
 ‘ of the husk, or from the field, or from the house, or from any place
 ‘ whatever ; but, if the owner ask *why he takes it*, the cause of the
 ‘ taking must be declared.

18. ‘ The wealth of a virtuous *Bráhmen* must at no time be seized
 ‘ by a *Cshatriya* ; but, having no other means *to complete a sacrifice*, he
 ‘ may

‘ may take the goods of any man, who acts wickedly, and of any, who
 ‘ performs not his religious duties :

19. ‘ He, who takes property from the bad *for the purpose before-*
 ‘ *mentioned*, and bestows it on the good, transforms himself into a boat,
 ‘ and carries both *the good and the bad* over a *sea of calamities*.

20. ‘ Wealth, possessed by men for the performance of sacrifices,
 ‘ the wise call the property of the gods; but the wealth of men, who
 ‘ perform no sacrifice, they consider as the property of demons.

21. ‘ Let no pious king fine the man, *who takes by stealth or by force*
 ‘ *what he wants to make a sacrifice perfect*; since it is the king’s folly,
 ‘ that causes the hunger or wants of a *Bráhmén* :

22. ‘ Having reckoned up the persons, whom the *Bráhmén* is obliged
 ‘ to support, having ascertained his divine knowledge and moral conduct,
 ‘ let the king allow him a suitable maintenance from his own household ;

23. ‘ And, having appointed him a maintenance, let the king pro-
 ‘ tect him on all sides; for he gains from the *Bráhmén*, whom he pro-
 ‘ tects, a sixth part of *the reward for his virtue*.

24. ‘ LET no *Bráhmén* ever beg a gift from a *Súdra*; for, if he
 ‘ perform a sacrifice after such begging, he shall, in the next life, be
 ‘ born a *Chandála*.

25. ‘ The *Bráhmén*, who begs any articles for a sacrifice, and dis-
 ‘ poses not of them all for that purpose, shall become a kite or a crow
 ‘ for a hundred years.

26. ‘ Any

26. ' Any evilhearted wretch, who, through covetousness, shall seize
' the property of the gods or of *Bráhmens*, shall feed in another world
' on the orts of vultures.

27. ' THE sacrifice *Vaisvánari* must be constantly performed on the
' first day of the new year, or on the new moon of *Chaitra*, as an ex-
' piation for having omitted *through mere forgetfulness* the appointed
' sacrifices of cattle and the rites of the moonplant :

28. ' But a twiceborn man, who, without necessity, does an act al-
' lowed only in a case of necessity, reaps no fruit from it hereafter :
' thus has it been decided.

29. ' By the *Viśwédévas*, by the *Sádhyas*, and by eminent *Rīshis*
' of the sacerdotal class, the substitute was adopted for the principal
' act, when they were apprehensive of dying in times of eminent peril ;

30. ' But no reward is prepared in a future state for that illminded
' man, who, when able to perform the principal sacrifice, has recourse
' to the substitute.

31. ' A PRIEST, who well knows the law, needs not complain to the
' king of any grievous injury ; since, even by his own power, he may
' chastise those, who injure him :

32. ' His own power, *which depends on himself alone*, is mightier than
' the royal power, *which depends on other men* : by his own might,
' therefore, may a *Bráhmen* coerce his foes.

33. ' He may use, without hesitation, the powerful charms revealed
' to AT'HARVAN, and *by him* to ANGIRAS ; for speech is the weapon
' of a *Bráhmen* : with that he may destroy his oppressors.

34. ' A foldier

34. ' A soldier may avert danger from himself by the strength of his
' arm; a merchant and a mechanick, by their property; but the chief
' of the twiceborn, by holy texts and oblations to fire.

35. ' A priest, who performs his duties, who justly corrects *his chil-*
' *dren and pupils*, who advises expiations for sin, and who loves all ani-
' mated creatures, is truly called a *Bráhmén*: to him let no man say
' any thing unpropitious, nor use any offensive language.

36. ' Let not a girl, nor a young woman *married or unmarried*,
' nor a man with little learning, nor a dunce, perform an oblation
' to fire; nor a man diseased, nor one uninvested *with the sacrificial*
' *string*;

37. ' Since any of those persons, who make such an oblation, shall
' fall into a region of torture, together with him, who suffers his hearth
' to be used: he alone, who perfectly knows the sacred ordinances,
' and has read all the *Védas*, must officiate at an oblation to holy
' fire.

38. ' A *Bráhmén* with abundant wealth, who presents not the priest,
' that hallows his fire, with a horse consecrated to PRAJA'PATI, be-
' comes equal to one who has no fire hallowed.

39. ' Let him, who believes the scripture, and keeps his organs in
' subjection, perform all other pious acts; but never in this world let
' him offer a sacrifice with trifling gifts to the officiating priest:

40. ' The organs of sense and action, reputation *in this life*, a heaven-
' ly mansion *in the next*, life *itself*, a great name *after death*, children,
' and cattle, are all destroyed by a sacrifice offered with trifling pre-
' sents: let no man, therefore, sacrifice without liberal gifts.

41. ' THE

41. ' THE priest, who keeps a sacred hearth, but voluntarily neglects *the morning and evening oblations* to his fires, must perform, *in the manner to be described*, the penance *chándráyana* for one month; since that *neglect* is equally sinful with the slaughter of a son.

42. ' They, who receive property from a *Súdra* for the performance of rites to consecrated fire, are condemned, as ministers of the base, by all such as pronounce texts of the *Véda* :

43. ' Of those ignorant priests, who serve the holy fire for the wealth of a *Súdra*, the giver shall always tread on the foreheads, and thus pass over miseries *in the gloom of death*.

44. ' EVERY man, who does not an act prescribed, or does an act forbidden, or is guilty of excess *even in legal* gratifications of the senses, must perform an expiatory penance.

45. ' Some of the learned consider an expiation as confined to involuntary sin; but others, from the evidence of the *Véda*, hold it effectual even in the case of a voluntary offence :

46. ' A sin, involuntarily committed, is removed by repeating certain texts of the scripture; but a sin committed intentionally, through strange infatuation, by harsh penances of different sorts.

47. ' IF a twiceborn man, by the will of God in this world, or from his natural birth, have any corporeal mark of an expiable sin committed in this or a former state, he must hold no intercourse with the virtuous, while his penance remains unperformed.

48. ' Some evil-minded persons, for sins committed in this life, and
' some for bad actions in a preceding state, suffer a morbid change
' in their bodies :

49. ' A stealer of gold from a *Bráhmén* has whitlows on his nails ;
' a drinker of spirits, black teeth ; the slayer of a *Bráhmén*, a maraf-
' mus ; the violator of his *guru's* bed, a deformity in the generative
' organs ;

50. ' A malignant informer, fetid ulcers in his nostrils ; a false de-
' tractor, stinking breath ; a stealer of grain, the defect of some limb ;
' a mixer of *bad wares with good*, some redundant member ;

51. ' A stealer of dressed grain, dyspepsia ; a stealer of holy words,
' or an unauthorized reader of the scriptures, dumbness ; a stealer of
' clothes, leprosy ; a horsetealer, lameness ;

52. ' The stealer of a lamp, total blindness ; the mischievous ex-
' tinguisher of it, blindness in one eye ; a delighter in hurting sentient
' creatures, perpetual illness ; an adulterer, windy swelling in his limbs :

53. ' Thus, according to the diversity of actions, are born men de-
' spised by the good, stupid, dumb, blind, deaf, and deformed.

54. ' Penance, therefore, must invariably be performed for the sake
' of expiation ; since they, who have not expiated their sins, will again
' spring to birth with disgraceful marks.

55. ' KILLING a *Bráhmén*, drinking forbidden liquor, stealing gold
' from a priest, adultery with the wife of a father, natural or spiritual,
' and associating with such as commit those offences, wise legislators
' must

‘ must declare to be crimes in the highest degree, *in respect of those after mentioned, but less than incest in a direct line, and some others.*

56. ‘ FALSE boasting of a high tribe, malignant information, before the king, of a criminal *who must suffer death*, and falsely accusing a spiritual preceptor, are crimes *in the second degree, and nearly equal to killing a Bráhmén.*

57. ‘ Forgetting the texts of scripture, showing contempt of the *Véda*, giving false evidence *without a bad motive*, killing a friend *without malice*, eating things prohibited, or, *from their manifest impurity*, unfit to be tasted, are six crimes nearly equal to drinking spirits; *but perjury and homicide require in atrocious cases the harshest expiation.*

58. ‘ To appropriate a thing deposited *or lent for a time*, a human creature, a horse, precious metals, a field, a diamond, or any other gem, is nearly equal to stealing the gold of a Bráhmén.

59. ‘ Carnal commerce with sisters by the same mother, with little girls, with women of the lowest mixed class, or with the wives of a friend or of a son, the wife must consider as nearly equal to a violation of the paternal bed.

60. ‘ SLAYING a bull or cow, sacrificing what ought not to be sacrificed, adultery, felling oneself, deserting a preceptor, a mother, a father, or a son, omitting to read the scripture, and neglect of the fires *prescribed by the Dhermasástra only*,

61. ‘ The marriage of a younger brother before the elder, and that elder’s omission to marry before the younger, giving a daughter to either of them, and officiating at their nuptial sacrifice,

62. ‘ Defiling

62. ' Defiling a damsel, usury, want of perfect chastity in a student,
' felling a holy pool or garden, a wife, or a child,

63. ' Omitting the sacred investiture, abandoning a kinsman, teach-
' ing the *Véda* for hire, learning it from a hired teacher, felling com-
' modities, that ought not to be sold,

64. ' Working in mines of any sort, engaging in *dykes, bridges, or*
' *other* great mechanical works, spoiling medicinal plants *repeatedly*,
' subsisting by *the harlotry* of a wife, offering sacrifices and preparing
' charms to destroy *the innocent*,

65. ' Cutting down green trees for firewood, performing holy rites
' with a selfish view merely, and eating prohibited food *once without a*
' *previous design*,

66. ' Neglecting to keep up the consecrated fire, stealing *any valua-*
' *ble thing besides gold*, nonpayment of *the three* debts, application to
' the books of a false religion, and excessive attention to musick or
' dancing,

67. ' Stealing grain, base metals, or cattle, familiarity *by the twice-*
' *born* with women, who have drunk inebriating liquor, killing *without*
' *malice* a woman, a *Súdra*, a *Vaisya*, or a *Cshatriya*, and denying a
' future state of rewards and punishments, are all crimes in the third
' degree, *but higher or lower according to circumstances*.

68. ' GIVING pain to a *Bráhmen*, smelling at any spirituous liquor
' or any thing *extremely fetid and* unfit to be smelt, cheating, and un-
' natural practices with a male, are considered as causing a loss of
' *clafs*.

69. ' To

69. ' To kill an afs, a horfe, a camel, a deer, an elephant, a goat,
' a fheep, a fifh, a fnake, or a buffalo, is declared an offence, which
' degrades the killer to a mixed tribe.

70. ' ACCEPTING presents from defpicable men, illegal traffick, at-
' tendance on a *Súdra* mafter, and fpeaking falfehood, muft be confi-
' dered as caufes of exclufion from focial repafts.

71 ' KILLING, an infect, fmall or large, a worm, or a bird, eating
' what has been brought *in the fame bafket* with fpirituous liquor, fteal-
' ing fruit, wood, or flowers, and great perturbation of mind on trifling
' occafions, are offences which caufe defilement.

72. ' You fhall now be completely inftructed in thofe penances, by
' which all the fins juft mentioned are expiable.

73. ' IF a *Bráhmén* have killed a man of the facerdotal clafs, *without*
' *malice prepense, the flayer being far fuperior to the flain in good qualities,*
' he muft himfelf make a hut in a foreft and dwell in it twelve whole
' years, fubfifting on alms for the purification of his foul, placing near
' him, as a token *of his crime, the skull of the flain, if he can procure it, or,*
' *if not, any human skull. The time of penance for the three lower claffes*
' *muft be twenty four, thirty fix, and forty eight, years.*

74. ' Or, *if the flayer be of the military clafs,* he may voluntarily ex-
' pofe himfelf as a mark to archers, who know *his intention*; or, *ac-*
' *cording to circumftances,* may caft himfelf headlong thrice, or even
' till he die, into blazing fire.

75. ' Or, *if he be a king, and flew a prieft without malice or knowledge*
' *of his clafs,* he may perform, *with presents of great wealth,* one of the
' following

‘ following sacrifices; an *Aśwamedha*, or a *Swerjit*, or a *Gōśava*, or an
 ‘ *Abbijit*, or a *Viśvajit*, or a *Trivṛit*, or an *Agnishtut*.

76. ‘ Or, to expiate the guilt of killing a priest *without knowing him*
 ‘ *and without design*, the killer may walk *on a pilgrimage* a hundred
 ‘ *yōjanas*, repeating any one of the *Vēdas*, eating barely enough to sus-
 ‘ tain life, and keeping his organs in perfect subjection;

77. ‘ Or, *if in that case the slayer be unlearned but rich*, he may give all
 ‘ his property to some *Brāhmen* learned in the *Vēda*, or a sufficiency of
 ‘ wealth for his life, or a house and furniture *to hold while he lives*:

78. ‘ Or, eating only such wild grains as are offered to the gods, he
 ‘ may walk *to the head of* the river *Saraswatī* against the course of the
 ‘ stream; or, subsisting on very little food, he may thrice repeat the
 ‘ whole collection of *Vēdas*, or the *Rīch*, *Yajush*, and *Sāman*.

79. ‘ Or, his hair being shorn, he may dwell near a town, or on
 ‘ pastureground for cows, or in some holy place, or at the root of a
 ‘ sacred tree, taking pleasure in doing good to cows and to *Brāh-*
 ‘ *mens*;

80. ‘ There, for the preservation of a cow or a *Brāhmen*, let him
 ‘ instantly abandon life; since the preserver of a cow or a *Brāhmen*
 ‘ atones for the crime of killing a priest:

81. ‘ Or, by attempting at least three times forcibly to recover *from*
 ‘ *robbers* the property of a *Brāhmen*, or by recovering it in one of his
 ‘ attacks, or even by losing his life in the attempt, he atones for his
 ‘ crime.

82. ‘ Thus,

82. ' Thus, continually firm in religious austerities, chaste as a student
' in the first order, with his mind intent on virtue, he may expiate
' the guilt of *undesignedly* killing a *Bráhmén*, after the twelfth year has
' expired.

83. ' Or, if a *virtuous Bráhmén* unintentionally kill another, who had
' no good quality, he may atone for his guilt by proclaiming it in an as-
' sembly of priests and military men, at the sacrifice of a horse, and by
' bathing with other *Bráhméns* at the close of the sacrifice :

84. ' *Bráhméns* are declared to be the basis, and *Cshatriyas* the summit,
' of the legal system : he, therefore, expiates his offence by fully pro-
' claiming it in such an assembly.

85. ' From his high birth alone, a *Bráhmén* is an object of veneration
' even to deities : his declarations to mankind are decisive evi-
' dence ; and the *Véda* itself confers on him that character.

86. ' Three at least, who are learned in the *Véda*, should be as-
' sembled to declare the proper expiation for the sin of a priest, but, for
' the three other classes, the number must be doubled, tripled, and quadru-
' pled : what they declare shall be an atonement for sinners ; since the
' words of the learned give purity.

87. ' Thus a *Bráhmén*, who has performed one of the preceding ex-
' piations, according to the circumstances of the homicide and the charac-
' ters of the persons killed and killing, with his whole mind fixed on God,
' purifies his soul, and removes the guilt of slaying a man of his own class :

88. ' He must perform the same penance for killing an embryo, the
' sex of which was unknown, but whose parents were sacerdotal, or a
' military

‘ military or a commercial man employed in a sacrifice, or a *Bráhmén*
 ‘ woman, who has bathed after temporary uncleanness ;

89. ‘ And *the same* for giving false evidence *in a cause concerning land*
 ‘ *or gold or precious commodities*, and for accusing his preceptor un-
 ‘ justly, and for appropriating a deposit, and for killing the wife of a
 ‘ priest, *who keeps a consecrated fire*, or for flaying a friend.

90. ‘ Such is the atonement ordained for killing a priest *without*
 ‘ *malice* ; but for killing a *Bráhmén* with malice prepenſe, this is no
 ‘ expiation : *the term of twelve years must be doubled, or, if the case was*
 ‘ *atrocious, the murderer must actually die in flames or in battle.*

91. ‘ ANY twiceborn man, who has *intentionally* drunk spirit of rice,
 ‘ through perverse delusion of mind, may drink more spirit in flame,
 ‘ and atone for his offence by severely burning his body ;

92. ‘ Or he may drink boiling hot, until he die, the urine of a cow,
 ‘ or pure water, or milk, or clarified butter, or juice expressed from
 ‘ cowdung :

93. ‘ Or, *if he tasted it unknowingly*, he may expiate the sin of drink-
 ‘ ing spirituous liquor, by eating only some broken rice or grains of *tila*,
 ‘ from which oil has been extracted, once every night for a whole
 ‘ year, wrapped in coarse vesture of hairs from a cow’s tail, *or sitting*
 ‘ *unclothed in his house*, wearing his locks and beard uncut, and putting
 ‘ out the flag of a tavern-keeper.

94. ‘ Since the spirit of rice is *distilled from the Mala*, or filthy
 ‘ refuse, of the grain, and since *Mala* is also a name for sin, let no
 ‘ *Bráhmén, Cshatriya, or Vaishya* drink that spirit.

95. ‘ Inebriating

95. ‘ Inebriating liquor may be considered as of three *principal* sorts;
 ‘ that extracted from dregs of sugar, that extracted from bruised rice,
 ‘ and that extracted from the flowers of the *Madhúca*: as one, so are
 ‘ all; they shall not be tasted by the chief of the twiceborn.

96. ‘ Those liquors, and *eight* other sorts, with the flesh of animals,
 ‘ and *A’sava*, the most pernicious beverage, *prepared with narcotick*
 ‘ *drugs*, are swallowed at the juncates of *Yacshas*, *Racshasas*, and *Pi-*
 ‘ *sáchas*: they shall not, therefore, be tasted by a *Bráhmén*, who feeds
 ‘ on clarified butter offered to gods.

97. ‘ A *Bráhmén*, stupefied by drunkenness, might fall on something
 ‘ very impure, or might even, when intoxicated, pronounce a secret
 ‘ phrase of the *Véda*, or might do some other act, which ought not to
 ‘ be done.

98. ‘ When the divine spirit, or *the light of holy knowledge*, which
 ‘ has been infused into his body, has once been sprinkled with any in-
 ‘ toxicating liquor, even his priestly character leaves him, and he sinks
 ‘ to the low degree of a *Súdra*.

99. ‘ Thus have been promulgated the various modes of expiation for
 ‘ drinking spirits: I will next propound the atonement for stealing the
 ‘ gold of a priest *to the amount of a suverna*.

100. ‘ HE, who has purloined the gold of a *Bráhmén*, must hasten
 ‘ to the king, and proclaim his offence; adding, “Inflict on me the
 ‘ punishment due to my crime.”

101. ‘ Then shall the king himself, taking from him an iron mace,
 ‘ *which the criminal must bear on his shoulder*, strike him with it once;

and by that stroke, *whether he die or be only left as dead*, the thief is released from sin : a *Bráhmén* by rigid penance alone *can expiate that offence ; another twiceborn man may also perform such a penance at his election.*

102. ' The twiceborn man, who desires to remove by austere devotion the taint caused by stealing gold, must perform in a forest, covered with a mantle of rough bark, the penance *before ordained* for him, who *without malice prepense* has killed a *Bráhmén*.

103. ' By these expiations may the twiceborn atone for the guilt of stealing gold from a priest ; but the sin of adultery with the wife of a father, *natural or spiritual*, they must expiate by the following penances.

104. ' He, who *knowingly and actually* has defiled the wife of his father, *she being of the same class*, must extend himself on a heated iron bed, loudly proclaiming his guilt ; and, there embracing the red-hot iron image of a woman, he shall atone for his crime by death ;

105. ' Or, having himself amputated his penis and scrotum, and holding them in his fingers, he may walk in a direct path toward the southwest, or the region of *NIRRIṬI*, until he fall dead on the ground :

106. ' Or, *if he had mistaken her for another woman*, he may perform for a whole year, with intense application of mind, the penance *prá-jápatya*, with part of a bed, or a human bone, in his hand, wrapped in vesture of coarse bark, letting his hair and beard grow, and living in a deserted forest :

107. ' Or,

107. ' Or, *if she was of a lower class and a corrupt woman*, he may
 ' expiate the sin of violating the bed of his father, by continuing the
 ' penance *chándráyana* for three months, always mortifying his body
 ' by eating only forest herbs, or wild grains boiled in water.

108. ' By the preceding penances may sinners of the two higher
 ' degrees atone for their guilt; and the less offenders may expiate theirs
 ' by the following austerities.

109. ' HE, who has committed the smaller offence of killing a cow
 ' *without malice*, must drink for the first month barleycorns boiled soft
 ' in water; his head must be shaved entirely; and, covered with the
 ' *hide of the slain cow*, he must fix his abode on her late pasture ground:

110. ' He may eat a moderate quantity of *wild grains*, but without
 ' any factitious salt, for the next two months at the time of each fourth
 ' repast, *on the evening of every second day*; regularly bathing in the
 ' urine of cows, and keeping his members under controul:

111. ' All day he must wait on the herd, and stand quaffing the dust
 ' *raised by their hoofs*; at night, having servilely attended and stroked
 ' and saluted them, he must surround them with a fence, and sit near
 ' *to guard* them:

112. ' Pure and free from passion, he must stand, while they stand;
 ' follow them, when they move together; and lie down by them,
 ' when they lie down:

113. ' Should a cow be sick or terrified by tigers or thieves, or fall,
 ' or stick in mud, he must relieve her by all possible means:

114. ' In

114. ' In heat, in rain, or in cold, or while the blast furiously rages,
' let him not seek his own shelter, without first sheltering the cows to
' the utmost of his power

115. ' Neither in his own house, or field, or floor for treading out
' grain, nor in those of any other person, let him say a word of a cow,
' who eats *corn or grass*, or of a calf, who drinks *milk* :

116. ' By waiting on a herd, according to these rules, for three
' months, the slayer of a cow atones for his guilt ;

117. ' *But*, his penance being performed, he must give ten cows
' and a bull, or, his stock not being so large, must deliver all he
' possesses, to such as best know the *Vēda*.

118. ' THE preceding penances, or that called *chāndrāyana*, must be
' performed for the absolution of all twiceborn men, who have com-
' mitted sins of the lower *or third* degree ; except those, who have in-
' curred the guilt of an *avacīrna* ;

119. ' But he, who has become *Avacīrni*, must sacrifice *a black or a*
' oneeyed afs, by way of a meatoffering to NIRRITI, *patroness of the*
' *southwest*, by night in a place where four ways meet :

120. ' Let him daily offer to her in fire the fat of that afs, and,
' at the close *of the ceremony*, let him offer clarified butter, with the
' holy text *Sem* and so forth, to PAVANA, to INDRA, to VRĪHASPATI,
' and to AGNI, *regents of wind, clouds, a planet, and fire*.

121. ' A voluntary effusion, *naturally or otherwise*, of that which
' may produce a man, by a twiceborn youth during the time of his
' studentship,

‘ studentship, or before marriage, has been pronounced *avacīrna*, or a
 ‘ violation of the rule prescribed for the first order, by sages, who
 ‘ knew the whole system of duty, and uttered the words of the *Vēda*.

122. ‘ To the four deities of purification, MA’RUTA, INDRA, VRĪHAS-
 ‘ PATI, AGNI, goes all the divine light, which the *Vēda* had imparted,
 ‘ from the student, who commits the foul sin *avacīrna* ;

123. ‘ But, this crime having actually been committed, he must go
 ‘ begging to seven houses, clothed only with the hide of the sacrificed
 ‘ ass, and openly proclaiming his act :

124. ‘ Eating a single meal begged from them, at the regular time
 ‘ of the day, that is, in the morning or evening, and bathing each day at
 ‘ the three *savanas*, he shall be absolved from his guilt at the end of
 ‘ one year.

125. ‘ HE, who has voluntarily committed any sin, which causes
 ‘ a loss of class, must perform the tormenting penance, thence called
 ‘ *sāntapana* ; or the *prājāpatya*, if he offended involuntarily.

126. ‘ FOR sins, which degrade to a mixed class, or exclude from
 ‘ society, the sinner must have recourse to the lunar expiation *chān-
 ‘ drāyana* for one month : to atone for acts, which occasion defilement,
 ‘ he must swallow nothing for three days but hot barleygruel.

127. ‘ FOR killing intentionally a virtuous man of the military class,
 ‘ the penance must be a fourth part of that ordained for killing a priest ;
 ‘ for killing a *Vaisya*, only an eighth ; for killing a *Sūdra*, who had
 ‘ been constant in discharging his duties, a sixteenth part :

128. ‘ But,

128. ' But, if a *Brábmén* kill a *Cshatriya* without malice, he must, after a full performance of his religious rites, give the priests one bull together with a thousand cows ;

129. ' Or he may perform for three years the penance for flaying a *Brábmén*, mortifying his organs of sensation and action, letting his hair grow long, and living remote from the town, with the root of a tree for his mansion.

130. ' If he kill *without malice* a *Vaisya*, who had a good moral character, he may perform the same penance for one year, or give the priests a hundred cows and a bull :

131. ' For six months must he perform this whole penance, if *without intention* he kill a *Súdra* ; or he may give ten white cows and a bull to the priests.

132. ' If he kill *by design* a cat, or an ichneumon, the bird *Cháśha*, or a frog, a dog, a lizard, an owl, or a crow, he must perform the ordinary penance required for the death of a *Súdra*, that is, the *chán-dráyana* :

133. ' Or, if he kill one of them *undesignedly*, he may drink nothing but milk for three days and nights, or each night walk a *yógan*, or thrice bathe in a river, or silently repeat the text on the divinity of water ; that is, if he be disabled by real infirmity from performing the first mentioned penances, he may have recourse to the next in order.

134. ' A *Brábmén*, if he kill a snake, must give to some priest a hoe, or ironheaded stick ; if an eunuch, a load of ricestraw, and a *máśha* of lead ;

135. ' If

135. ' If a boar, a pot of clarified butter ; if the bird *tittiri*, a *dróna* of *tila* seeds : if a parrot, a steer two years old ; if the waterbird *crauncha*, a steer aged three years :

136. ' If he kill a *goose*, or a phenicopteros, a *heron*, or cormorant, a bittern, a peacock, an ape, a hawk, or a kite, he must give a cow to some *Bráhmén* :

137. ' If he kill a horse, he must give a mantle ; if an elephant, five black bulls ; if a goat or a sheep, one bull ; if an ass, a calf one year old :

138. ' If he kill a carnivorous wild beast, he must give a cow with abundance of milk ; if a wild beast not carnivorous, a fine heifer ; and a *rañtíca* of gold, if he slay a camel :

139. ' If he kill a woman of any class caught in adultery, he must give as an expiation, in the direct order of the four classes, a leather pouch, a bow, a goat, and a sheep.

140. ' Should a *Bráhmén* be unable to expiate by gifts the sin of killing a snake and the rest, he must atone for his guilt by performing, on each occasion, the penance *prájápatya*.

141. ' For the slaughter of a thousand small animals which have bones, or for that of boneless animals enow to fill a cart, he must perform the *chándráyana*, or common penance for killing a *Súdra* ;

142. ' But, for killing boned animals, he must also give some trifle, as a pana of copper, to a *Bráhmén* : for killing those without bones, he may be absolved by holding his breath, at the close of his penance, while,

‘ while he thrice repeats the *gáyatrì* with its *bead*, the *pranava*, and
 ‘ the *vyábr̥itis*.

143. ‘ For cutting *once without malice* trees yielding fruit, shrubs
 ‘ with many crowded stems, creeping or climbing plants, or such as
 ‘ grow again when cut, if they were in blossom *when he hurt them*, he
 ‘ must repeat a hundred texts of the *Véda*.

144. ‘ For killing insects of any sort bred in rice or other grains, or
 ‘ those bred in honey *or other* fluids, or those bred in fruit or flowers,
 ‘ eating clarified butter is a full expiation.

145. ‘ If a man cut, *wantonly and* for no good purpose, such grasses
 ‘ as are cultivated, or such as rise in the forest spontaneously, he must
 ‘ wait on a cow for one day, nourished by milk alone.

146. ‘ By these penances may mankind atone for the sin of injuring
 ‘ sentient creatures, whether committed by design or through inadver-
 ‘ tence: hear now what penances are ordained for eating or drinking
 ‘ what ought not to be tasted.

147. ‘ HE, who drinks undesignedly any spirit *but that of rice*, may
 ‘ be absolved by a new investiture with the sacrificial string: even for
 ‘ drinking intentionally *the weaker sorts of spirit*, a penance extending
 ‘ to death must not (as the law is now fixed) be prescribed.

148. ‘ For drinking water which has stood in a vessel, where
 ‘ spirit of rice or any other spirituous liquor had been kept, he must
 ‘ swallow nothing, for five *days and* nights, but the plant *sanc’hapushpí*
 ‘ boiled in milk:

149. ‘ If

149. ' If he touch any spirituous liquor, or give any away, or accept any in due form, *or with thanks*, or drink water left by a *Súdra*, he must swallow nothing, for three *days and nights*, but *cus'a-grafs* boiled in water.

150. ' Should a *Brábmén*, who has once tasted the holy juice of the moonplant, even smell the breath of a man who has been drinking spirits, he must remove the taint by thrice repeating the *gáyatrì*, while he suppresses his breath in water, and by eating clarified butter *after that ceremony*.

151. ' If any of the three twiceborn classes have tasted unknowingly human ordure or urine, or any thing that has touched spirituous liquor, they must, *after a penance*, be girt anew with the sacrificial thread;

152. ' But, in such new investiture of the twiceborn, the partial tonsure, the zone, the staff, the petition of alms, and the strict rules of abstinence, need not be renewed.

153. ' SHOULD one of them eat the food of those persons, with whom he ought never to eat, or food left by a woman or a *Súdra*, or any prohibited flesh, he must drink barleygruel only for seven *days and nights*.

154. ' If a *Brábmén* drink sweet liquors turned acid, or astringent juices from impure fruits, he becomes unclean, as long as those fluids remain undigested.

155. ' Any twiceborn man, who *by accident* has tasted the dung or urine of a tame boar, an ass, a camel, a shakal, an ape, or a crow, must perform the penance *chándráyana*:

156. ' If he taste dried fleshmeat, or mushrooms rising from the ground, or any thing brought from a slaughter-house, though he knew not whence it came, he must perform the same penance.

157. ' For *knowingly* eating the flesh of carnivorous beasts, of town-boars, of camels, of gallinaceous birds, of human creatures, of crows, or of asses, the penance *taptacrīch'bra*, or *burning and severe*, is the only atonement.

158. ' A *Brábmén*, who, before he has completed his theological studies, eats food at monthly obsequies to one ancestor, must fast three days and nights, and sit in water a day :

159. ' But a student in theology, who at any time *unknowingly* tastes honey or flesh, must perform the lowest penance, or the *prájápatya*, and proceed to finish his studentship.

160. ' Having eaten what has been left by a cat, a crow, a mouse, a dog, or an ichneumon, or what has even been touched by a louse, he must drink, *boiled in water*, the plant *brahmasuverchalá*.

161. ' By the man, who seeks purity of soul, no forbidden food must be tasted: what he has undesignedly swallowed he must instantly vomit up, or must purify himself with speed by legal expiations.

162. ' Such, as have been declared, are the various penances for eating prohibited food: hear now the law of penance for an expiation of theft.

163. ' THE chief of the twiceborn, having voluntarily stolen such property, as grain, raw or dressed, from the house of another *Brábmén*, shall be absolved on performing the penance *prájápatya* for a whole year ;

164. ' But

164. ' But the penance *chāndrāyana* must be performed for stealing a
' man, woman, or child, for seizing a field, or a house, or for taking
' the waters of an enclosed pool or well.

165. ' Having taken goods of little value from the house of another
' man, he must procure absolution by performing the penance *śānta-*
' *pana*; having first restored, *as the penitent thief always must*, the goods
' that he stole.

166. ' For taking what may be eaten, or what may be sipped, a car-
' riage, a bed, or a seat, roots, flowers, or fruit, an atonement may
' be made by swallowing the five pure things produced from a cow,
' *or milk, curds, butter, urine, dung* :

167. ' For stealing grass, wood, or trees, rice in the husk, molasses,
' cloth or leather, fish, or other animal food, a strict fast must be kept
' three *days and three* nights.

168. ' For stealing gems, pearls, coral, copper, silver, iron, brass,
' or stone, nothing but broken rice must be swallowed for twelve
' days;

169. ' And nothing but milk for three days, if cotton, or silk, or
' wool had been stolen, or a beast either with cloven or uncloven hoofs,
' or a bird, or perfumes, or medicinal herbs, or cordage.

170. ' By these penances may a twiceborn man atone for the
' guilt of theft; but the following austerities only can remove the
' sin of carnally approaching those, who must not be carnally ap-
' proached.

171. ' He,

171. ' HE, who has wasted his manly strength with sisters by the
' same womb, with the wives of his friend or of his son, with girls
' under the age of puberty, or with women of the lowest classes,
' must perform the penance ordained for defiling the bed of a pre-
' ceptor:

172. ' He, who has carnally known the daughter of his paternal
' aunt, *who is almost equal to a sister*, or the daughter of his maternal
' aunt, or the daughter of his maternal uncle, *who is a near kinsman*,
' must perform the *chándráyana*, or *lunar penance*;

173. ' No man of sense would take one of those three as his wife:
' they shall not be taken in marriage by reason of their consanguinity;
' and he, who marries any one of them, falls deep *into sin*.

174. ' He, who has wasted, what might have produced a man, with
' female brute animals, with a woman during her courses, or in any
' but the natural part, or in water, must perform the penance *śan-*
' *tapana*: *for a bestial act with a cow the penance must be far more se-*
' *vere*.

175. ' A twiceborn man, dallying lasciviously with a male *in any*
' *place or at any time*, or with a female in a carriage drawn by bullocks,
' or in water, or by day, *shall be degraded, and* must bathe himself *pub-*
' *lickly* with his apparel.

176. ' Should a *Bráhmen* carnally know a woman of the *Chandála* or
' *Mléch'ha* tribes, or taste their food, or accept a gift from them, he
' loses his own class, *if he acted unknowingly*, or, *if knowingly*, sinks to
' a level *with them*.

177. ' A

177. ' A wife, excessively corrupt, let her husband confine to one
' apartment, and compel her to perform the penance ordained for a
' man, who has committed adultery :

178. ' If, having been solicited by a man of her own class, she
' again be defiled, her expiation must be the penance *prájápatya* added
' to the *chándráyana*.

179. ' The guilt of a *Bráhmén*, who has dallied a whole night with
' a *Chandáli* woman, he may remove in three years by subsisting on
' alms, and incessantly repeating the *gáyatrì* with other mysterious
' texts.

180. ' These penances have been declared for finners of four sorts,
' *those who hurt sentient creatures, those who eat prohibited food, those*
' *who commit theft, and those who are guilty of lasciviousness* : hear now
' the prescribed expiation for such, as hold any intercourse with de-
' graded offenders.

181. ' HE, who associates himself for one year with a fallen finner,
' falls like him ; not by sacrificing, reading the *Véda*, or contracting
' affinity with him, *since by those acts he loses his class immediately*, but
' even by using the same carriage or seat, or by taking his food at the
' same board :

182. ' That man, who holds an intercourse with any one of those
' degraded offenders, must perform, as an atonement for such inter-
' course, the penance ordained for that finner himself.

183. ' The *sapindas* and *samánódacas* of a man degraded, *for a crime*
' *in the first degree*, must offer a libation of water to his manes, *as if*
' *he*

‘ *he were naturally dead*, out of the town, in the evening of some in-
‘ *auspicious day, as the ninth of the moon*, his paternal kinsmen, his
‘ officiating priest, and his spiritual guide being present.

184. ‘ A female slave must kick down with her foot an old pot filled
‘ with water, *which had for that purpose been placed towards the south*,
‘ as if it were an oblation for the dead; and all the kinsmen, in the
‘ nearer and remoter degrees, must remain impure for a day and a
‘ night:

185. ‘ They must thenceforth desist from speaking to him, from sit-
‘ ting in his company, from delivering to him any inherited or other
‘ property, and from every civil or usual attention, *as inviting him on*
‘ *the first day of the year, and the like*.

186. ‘ His right of primogeniture, *if he was an elder brother*, must
‘ be withholden from him, and whatever perquisites arise from priority
‘ of birth: a younger brother, excelling him in virtue, must appro-
‘ priate the share of the firstborn.

187. ‘ But, when he has performed his due penance, his kinsmen
‘ and he must throw down a new vessel full of water, after having
‘ bathed together in a pure pool:

188. ‘ Then must he cast that vessel into the water; and, having en-
‘ tered his house, he may perform, as before, all the acts incident to his
‘ relation by blood.

189. ‘ The same ceremony must be performed by the kindred even
‘ of women degraded, for whom clothes, dressed rice, and water must
‘ be provided; and they must dwell *in huts* near the family house.

190. ‘ With

190. ' With finners, whose expiations are unperformed, let not a
' man transact business of any kind; but those, who have performed
' their expiations, let him at no time reproach :

191. ' Let him not, however, live with those, who have slain chil-
' dren, or injured their benefactors, or killed suppliants for protection,
' or put women to death, even though such offenders have been legally
' purified.

192. ' THOSE men of the twiceborn classes, to whom the *gáyatrì*
' has not been repeated and explained, according to law, the assembly
' must cause to perform three *prájápatya* penances, and *afterwards* to be
' girt with the sacrificial string ;

193. ' And the same penance they must prescribe to such twiceborn
' men, as are anxious to atone for some illegal act, or a neglect of the
' *Véda*.

194. ' If priests have accepted any property from base hands, they
' may be absolved by relinquishing the presents, by repeating mysterious
' texts, and by acts of devotion :

195. ' By three thousand repetitions of the *gáyatrì* with intense ap-
' plication of mind, and by subsisting on milk only for a whole month
' in the pasture of cows, a *Bráhmén*, who has received any gift from a
' bad man, *or a bad gift from any man*, may be cleared from sin.

196. ' When he has been mortified by abstinence, and has returned
' from the pasturage, let him bend low to the other *Bráhméns*, who
' must thus interrogate him : " Art thou really desirous, good man, of
' " readmission to an equality with us ?"

197. ' If

197. ' If he answer in the affirmative, let him give some galls to
' the cows, and in the place, made pure by their having eaten on it,
' let the men of his class give their assent to his readmission.

198. ' HE, who has officiated at a sacrifice for outcasts, or burned
' the corpse of a stranger, or performed rites to destroy the innocent,
' or made the impure sacrifice, called *Abina*, may expiate his guilt by
' three *prájápatya* penances.

199. ' A TWICEBORN man, who has rejected a suppliant for his pro-
' tection, or taught the *Véda* on a forbidden day, may atone for his
' offence by subsisting a whole year on barley alone.

200. ' HE, who has been bitten by a dog, a shakal, or an ass, by
' any carnivorous animal frequenting a town, by a man, a horse, a
' camel, or a boar, may be purified by stopping his breath during one
' repetition of the *gáyatrî*.

201. ' To eat only at the time of the sixth meal, *or on the evening of*
' *every third day*, for a month, to repeat a *Sanhitâ* of the *Védas*, and to
' make *eight* oblations to fire, accompanied with *eight* holy texts, are al-
' ways an expiation for those, who are excluded from society at repasts.

202. ' SHOULD a *Bráhmen* voluntarily ascend a carriage borne by
' camels or drawn by asses, or designedly bathe quite naked, he may
' be absolved by one suppression of breath, while he repeats in his
' mind the most holy text.

203. ' HE, who has made any excretion, being greatly pressed,
' either without water *near him*, or in water, may be purified by bath-
' ing in his clothes out of town, and by touching a cow.

204. ' FOR

204. ' FOR an omission of the acts, which the *Vēda* commands to be
' constantly performed, and for a violation of the duties prescribed to a
' housekeeper, the atonement is fasting *one day*.

205. ' HE, who says hush or pish to a *Bráhmén*, or thou *to a superior*,
' must *immediately* bathe, eat nothing for the rest of the day, and ap-
' pease him by clasping his feet with respectful salutation.

206. ' For striking a *Bráhmén* even with a blade of grass, or tying him
' by the neck with a cloth, or overpowering him in argument, and adding
' contemptuous words, the offender must soothe him by falling prostrate.

207. ' An assaulter of a *Bráhmén*, with intent to kill, shall remain
' in hell a hundred years ; for actually striking him *with the like intent*,
' a thousand :

208. ' As many small pellets of dust as the blood of a *Bráhmén* col-
' lects on the ground, for so many thousand years must the shedder of
' that blood be tormented in hell.

209. ' For a simple assault, the first *or common* penance must be per-
' formed ; for a battery, the *third or* very severe penance ; but for shed-
' ding blood, *without killing*, both of those penances.

210. ' To remove the sins, for which no particular penance has been
' ordained, the assembly must award a fit expiation, considering the
' ability of the sinner *to perform it*, and the *nature of the sin*.

211. ' THOSE penances, by which a man may atone for his crimes,
' I now will describe to you ; penances, which have been performed by
' deities, by holy sages, and by forefathers *of the human race*.

212. ' WHEN a twiceborn man performs the *common* penance, or
 ' that of PRAJA'PATI, he must for three days eat only in the morn-
 ' ing; for three days, only in the evening; for three days, food unasked
 ' but presented to him; and for three more days, nothing.

213. ' Eating for a whole day the dung and urine of cows mixed with
 ' curds, milk, clarified butter, and water boiled with *cus'a*-grafs, and
 ' then fasting entirely for a day and a night, is the penance called *Sán-*
 ' *tapana*, either from the devout man SANTAPANA, or from tormenting.

214. ' A twiceborn man performing the penance, called very severe,
 ' in respect of the common, must eat, as before, a single mouthful, or a
 ' ball of rice as large as a hen's egg, for three times three days; and for
 ' the last three days, must wholly abstain from food.

215. ' A *Bráhmén*, performing the ardent penance, must swallow
 ' nothing but hot water, hot milk, hot clarified butter, and hot steam,
 ' each of them for three days successively, performing an ablution and
 ' mortifying all his members.

216. ' A total fast for twelve days and nights, by a penitent with his
 ' organs controlled and his mind attentive, is the penance named *pa-*
 ' *raca*, which expiates all degrees of guilt.

217. ' If he diminish his food by one mouthful each day during the
 ' dark fortnight, eating fifteen mouthfuls on the day of the opposition, and
 ' increase it in the same proportion, during the bright fortnight, fasting
 ' entirely on the day of the conjunction, and perform an ablution regularly at
 ' sunrise, noon, and sunset, this is the *chándráyana*, or the lunar penance:

218. ' Such is the penance called ant-shaped or narrow in the middle;
 ' but, if he perform the barley-shaped or broad in the middle, he must
 ' observe

‘ observe the same rule, beginning with the bright halfmonth, and
 ‘ keeping under command his organs of action and sense.

219. ‘ To perform the lunar penance of an anchorite, he must eat
 ‘ only eight mouthfuls of forest grains at noon *for a whole month*, tak-
 ‘ ing care to subdue his mind.

220. ‘ If a *Bráhmén* eat only four mouthfuls at sunrise, and four at
 ‘ sunset, *for a month*, keeping his organs controlled, he performs the
 ‘ lunar penance of children.

221. ‘ He, who, for a whole month, eats no more than thrice eighty
 ‘ mouthfuls of wild grains, *as he happens* by any means *to meet with*
 ‘ *them*, keeping his organs in subjection, shall attain the same abode
 ‘ with the regent of the moon :

222. ‘ The eleven *Rudras*, the twelve *A'dityas*, the eight *Vasus*, the
 ‘ *Maruts*, or genii of the winds, and the seven great *Rishis*, have per-
 ‘ formed this lunar penance as a security from all evil.

223. ‘ The oblation of *clarified butter* to fire must every day be made
 ‘ by *the penitent* himself, accompanied with the mighty words *earth*,
 ‘ *sky*, *heaven* ; he must perfectly abstain from injury to sentient crea-
 ‘ tures, from falsehood, from wrath, and from all crooked ways.

224. ‘ Or, thrice each day and thrice each night for a month, the
 ‘ penitent may plunge into water clothed in his mantle, and at no
 ‘ time conversing with a woman, a *Súdra*, or an outcast.

225. ‘ LET him be always in motion, sitting and rising alternately,
 ‘ or, if unable *to be thus restless*, let him sleep low *on the bare ground* ;
 ‘ chaste

‘ chaste as a student of the *Véda*, bearing the sacred zone and staff,
 ‘ showing reverence to his preceptor, to the gods, and to priests ;

226. ‘ Perpetually must he repeat the *gáyatrî*, and other pure texts
 ‘ to the best of his knowledge : thus in all penances for absolution from
 ‘ sin, must he vigilantly employ himself.

227. ‘ By these expiations are twiceborn men absolved, whose of-
 ‘ fences are publicly known, *and are mischievous by their example* ; but
 ‘ for sins not publick, the assembly of priests must award them pe-
 ‘ nances, with holy texts and oblations to fire.

228. ‘ By open confession, by repentance, by devotion, and by read-
 ‘ ing the scripture, a sinner may be released from his guilt ; or by
 ‘ almsgiving, in case of his inability *to perform the other acts of reli-*
 ‘ *gion.*

229. ‘ In proportion as a man, who has committed a sin, shall truly
 ‘ and voluntarily confess it, so far he is disengaged from that offence,
 ‘ like a snake from his slough ;

230. ‘ And, in proportion as his heart sincerely loathes his evil deed,
 ‘ so far shall his vital spirit be freed from the taint of it.

231. ‘ If he commit sin, and actually repent, that sin shall be re-
 ‘ moved from him ; but if he merely say, “ I will sin thus no more,”
 ‘ he can only be released by an actual abstinence from guilt.

232. ‘ Thus revolving in his mind the certainty of retribution in a
 ‘ future state, let him be constantly good in thoughts, words, and
 ‘ action.

233. ‘ If

233. ‘ If he desire complete remission of any foul act which
 ‘ he has committed, either ignorantly or knowingly, let him be-
 ‘ ware of committing it again: *for the second fault his penance must be*
 ‘ *doubled.*

234. ‘ If, having performed any expiation, he feel not a perfect satisf-
 ‘ faction of conscience, let him repeat the same devout act, until his
 ‘ conscience be perfectly satisfied.

235. ‘ All the bliss of deities and of men is declared by sages, who
 ‘ discern the sense of the *Véda*, to have in devotion its cause, in devo-
 ‘ tion its continuance, in devotion its fullness.

236. ‘ Devotion is *equal to the performance of all duties; it is* divine
 ‘ knowledge in a *Bráhmen*; it is defence of the people in a *Cshatriya*;
 ‘ devotion is *the business of trade and agriculture* in a *Vaisya*; devotion
 ‘ is dutiful service in a *Súdra*.

237. ‘ Holy sages, with subdued passions, feeding only on fruit,
 ‘ roots, and air, by devotion alone are enabled to survey the three
 ‘ worlds, *terrestrial, ethereal, and celestial*, peopled with animal crea-
 ‘ tures, locomotive and fixed.

238. ‘ Perfect health, or unfailing medicines, divine learning, and
 ‘ the various mansions of deities, are acquired by devotion alone: their
 ‘ efficient cause is devotion.

239. ‘ Whatever is hard to be traversed, whatever is hard to be ac-
 ‘ quired, whatever is hard to be visited, whatever is hard to be per-
 ‘ formed, all this may be accomplished by true devotion; for the dif-
 ‘ ficulty of devotion is the greatest of all.

240. ‘ Even

240. ' Even finners in the highest degree, and of course the
' other offenders, are absolved from guilt by austere devotion well-
' practised.

241. ' *Souls, that animate* worms, and insects, serpents, moths, beasts,
' birds, and vegetables, attain heaven by the power of devotion.

242. ' Whatever sin has been conceived in the hearts of men, ut-
' tered in their speech, or committed in their bodily acts, they speedily
' burn it all away by devotion, if they preserve devotion as their best
' wealth.

243. ' Of a priest, whom devotion has purified, the divine spirits
' accept the sacrifices, and grant the desires with ample increase.

244. ' Even BRAHMA', lord of creatures, by devotion enacted this
' code of laws ; and the sages by devotion acquired a knowledge of the
' *Védas*.

245. ' Thus the gods themselves, observing in this universe the
' incomparable power of devotion, have proclaimed aloud the trans-
' cendent excellence of pious austerity.

246. ' By reading each day as much as possible of the *Véda*, by per-
' forming the *five* great sacraments, and by forgiving all injuries, even
' sins of the highest degree shall be soon effaced :

247. ' As fire consumes in an instant with his bright flame the
' wood, that has been placed on it, thus, with the flame of knowledge,
' a *Bráhmén*, who understands the *Véda*, consumes all sin.

248. ' Thus

248. ' Thus has been declared, according to law, the mode of atoning for open sins: now learn the mode of obtaining absolution for secret offences.

249. ' SIXTEEN suppressions of the breath, *while the holiest of texts is repeated* with the three mighty words, and the trilateral syllable, continued each day for a month, absolve even the slayer of a *Bráhmén* from his hidden faults.

250. ' Even a drinker of spirituous liquors is absolved by repeating each day the text *apa* used by the sage CAUTSA, or that beginning with *preti* used by VASISHT'HA, or that called *mábitra*, or that, of which the first word is *suddhavatyah*.

251. ' By repeating *each day for a month* the text *ásyavámiya*, or the hymn *Sivasancalpa*, the stealer of gold from a priest becomes instantly pure.

252. ' He, who has violated the bed of his preceptor, is cleared from secret faults by repeating *sixteen times a day* the text *havishyantiya*, or that beginning with *na tamanbáh*, or by revolving in his mind the sixteen holy verses, called *Paurusha*.

253. ' The man, who desires to expiate *his hidden* sins great and small, must repeat *once a day* for a year the text *ava*, or the text *yatcinchida*.

254. ' He, who has accepted an illegal present, or eaten prohibited food, may be cleansed in three days by repeating the text *tarat-samandiya*.

255. ' Though

255. ' Though he have committed many secret sins, he shall be
' purified by repeating for a month the text *śomāraudra* or the three
' texts *āryamna*, while he bathes in a sacred stream.

256. ' A grievous offender must repeat the seven verses, beginning
' with INDRA, for half a year; and he, who has defiled water with
' any impurity, must sit a whole year subsisting by alms.

257. ' A twiceborn man, who shall offer clarified butter for a year,
' with *eight* texts appropriated to *eight* several oblations, or with the
' text *na mé*, shall efface a sin even of an extremely high degree.

258. ' He, who had committed a crime of the first degree, shall be
' absolved, if he attend a herd of kine for a year, mortify his organs,
' and continually repeat the texts beginning with *pāvamāni*, living
' solely on food given in charity:

259. ' Or, if he thrice repeat a *Sanhitā* of the *Vēdas*, or a large por-
' tion of them with all the mantras and brāhmanas, dwelling in a forest
' with subdued organs, and purified by three *parācas*, he shall be set
' free from all sins how heinous soever.

260. ' Or he shall be released from all deadly sins, if he fast three
' days, with his members mortified, and twice a day plunge into water,
' thrice repeating the text *aghamarshana*:

261. ' As the sacrifice of a horse, the king of sacrifices, removes all
' sins, thus the text *aghamarshana* destroys all offences.

262. ' A priest, who should retain in his memory the whole
' *Rigvēda*, would be absolved from guilt, even if he had slain the
' inhabitants

‘ inhabitants of the three worlds, and had eaten food from the foulest
‘ hands.

263. ‘ By thrice repeating the *mantras* and *bráhmanas* of the *R̥ich*,
‘ or those of the *Yajush*, or those of the *Sáman*, with the *upanishads*, he
‘ shall perfectly be cleansed from every possible taint :

264. ‘ As a clod of earth, cast into a great lake, sinks in it, thus is
‘ every sinful act submerged in the triple *Véda*.

265. ‘ The divisions of the *R̥ich*, the several branches of the *Yajush*,
‘ and the manifold strains of the *Sáman* must be considered as forming
‘ the triple *Véda* : he knows the *Véda*, who knows them collectively.

266. ‘ The primary triliteral syllable, in which the three *Védas*
‘ themselves are comprised, must be kept secret, as another triple *Véda* :
‘ he knows the *Véda*, who *distinctly* knows *the mystick sense* of that
‘ word.’

CHAPTER THE TWELFTH.

On Transmigration and Final Beatitude.

1. ‘**O** THOU, who art free from sin, *said the devout sages,*
‘ thou hast declared the whole system of duties ordained for the four
‘ classes of men : explain to us now, from the first principles, the ul-
‘ timate retribution for their deeds.’

2. BHRĪGU, whose heart was the pure essence of virtue, who pro-
ceeded from MENU himself, thus addressed the great sages : ‘ Hear
‘ the infallible rules for *the fruit of* deeds in this universe.

3. ‘ ACTION, either mental, verbal, or corporeal, bears good or evil
‘ fruit, *as itself is good or evil* ; and from the actions of men proceed
‘ their various transmigrations in the highest, the mean, and the lowest
‘ degree :

4. ‘ Of that threefold action, connected with bodily functions, dis-
‘ posed in three classes, and consisting of ten orders, be it known in this
‘ world, that the heart is the instigator.

5. ‘ Devising means to appropriate the wealth of other men, re-
‘ solving on any forbidden deed, and conceiving notions of atheism or
‘ materialism, are the three bad acts of the mind :

6. ‘ Scurrilous

6. ' Scurrilous language, falsehood, indiscriminate backbiting, and
' useless tattle, are the four bad acts of the tongue :

7. ' Taking effects not given, hurting sentient creatures without the
' sanction of law, and criminal intercourse with the wife of another,
' are the three bad acts of the body ; *and all the ten have their opposites,*
' *which are good in an equal degree.*

8. ' A rational creature has a reward or a punishment for mental
' acts, in his mind ; for verbal acts, in his organs of speech ; for cor-
' poreal acts, in his bodily frame.

9. ' For sinful acts mostly corporeal, a man shall assume *after death*
' a vegetable or mineral form ; for such acts mostly verbal, the form of
' a bird or a beast ; for acts mostly mental, the lowest of human con-
' ditions :

10. ' He, whose firm understanding obtains a command over his
' words, a command over his thoughts, and a command over his
' whole body, may justly be called a *tridandī*, or *triple commander* ; *not a*
' *mere anchorite, who bears three visible staves.*

11. ' The man, who exerts this triple selfcommand with respect to
' all animated creatures, wholly subduing both lust and wrath, shall by
' those means attain beatitude.

12. ' THAT substance, which gives a power of motion to the body,
' the wise call *cshétrajanya*, or *jīvātman*, the vital spirit ; and that body,
' which thence derives active functions, they name *bhūtātman*, or *com-*
' *posed of elements* :

13. ' Another

13. ‘ Another internal spirit, called *mahat*, or *the great soul*, attends
‘ the birth of all creatures imbodyed, and thence in all mortal forms
‘ is conveyed a perception either pleasing or painful.

14. ‘ Those two, the vital spirit and reasonable soul, are closely
‘ united with *five* elements, but connected with the supreme spirit, or
‘ divine essence, which pervades all beings high and low :

15. ‘ From the substance of that *supreme spirit* are diffused, *like*
‘ *sparks from fire*, innumerable vital spirits, which perpetually give mo-
‘ tion to creatures exalted and base.

16. ‘ By the vital souls of those men, who have committed sins *in*
‘ *the body reduced to ashes*, another body, composed of *nerves with five*
‘ sensations, in order to be susceptible of torment, shall certainly be
‘ assumed after death ;

17. ‘ And, being intimately united with those minute nervous par-
‘ ticles, according to their distribution, they shall feel, in that new
‘ body, the pangs inflicted in each case by the sentence of YAMA.

18. ‘ When the vital soul has gathered the fruit of sins, which arise
‘ from a love of sensual pleasure, but must produce misery, and, when
‘ its taint has thus been removed, it approaches again those two most
‘ effulgent essences *the intellectual soul and the divine spirit* :

19. ‘ They two, closely conjoined, examine without remission the
‘ virtues and vices of that sensitive soul, according to its union with
‘ which it acquires pleasure or pain in the present and future worlds.

20. ‘ If

20. ' If the vital spirit had practised virtue for the most part and
' vice in a small degree, it enjoys delight in celestial abodes, clothed
' with a body formed of pure elementary particles ;

21. ' But, if it had generally been addicted to vice, and seldom
' attended to virtue, then shall it be deserted by those pure elements,
' and, *having a coarser body of sensible nerves*, it feels the pains to which
' YAMA shall doom it :

22. ' Having endured those torments according to the sentence of
' YAMA, and its taint being almost removed, it again reaches those five
' pure elements in the order of their natural distribution.

23. ' Let each man, considering with his intellectual powers these
' migrations of the soul according to its virtue or vice, *into a region of*
' *bliss or pain*, continually fix his heart on virtue.

24. ' BE it known, that the three qualities of the rational soul are a
' tendency to goodness, to passion, and to darkness ; and, endued with
' one or more of them, it remains incessantly attached to all these
' created substances :

25. ' When any one of the *three* qualities predominates in a mortal
' frame, it renders the embodied spirit eminently distinguished for that
' quality.

26. ' Goodness is declared to be true knowledge ; darkness, gross
' ignorance ; passion, an emotion of desire or aversion : such is the
' compendious description of those qualities, which attend all souls.

27. ' When

27. ' When a man perceives in the reasonable soul a disposition
' tending to virtuous love, unclouded with any malignant passion,
' clear as the purest light, let him recognise it as the quality of
' goodness :

28. ' A temper of mind, which gives uneasiness and produces dis-
' affection, let him consider as the adverse quality of passion, ever
' agitating imbodied spirits :

29. ' That indistinct, inconceivable, unaccountable disposition of a
' mind naturally sensual, and clouded with infatuation, let him know
' to be the quality of darkness.

30. ' Now will I declare at large the various acts, in the highest,
' middle, and lowest degrees, which proceed from those three disposi-
' tions of mind.

31. ' Study of scripture, austere devotion, sacred knowledge, cor-
' poreal purity, command over the organs, performance of duties, and
' meditation on the divine spirit, accompany the good quality of the
' soul :

32. ' Interested motives for acts *of religion or morality*, perturbation
' of mind on flight occasions, commission of acts forbidden by law, and
' habitual indulgence in selfish gratifications, are attendant on the qua-
' lity of passion :

33. ' Covetousness, indolence, avarice, detraction, atheism, omission
' of prescribed acts, a habit of soliciting favours, and inattention to
' necessary business, belong to the dark quality.

34. ' Of

34. ' Of those three qualities, as they appear in the three times,
' *past, present, and future*, the following in order *from the lowest* may
' be considered as a short *but certain* criterion.

35. ' Let the wise consider, as belonging to the quality of darkness,
' every act, which a man is ashamed of having done, of doing, or of
' going to do :

36. ' Let them consider, as proceeding from the quality of passion,
' every act, by which a man seeks exaltation and celebrity in this
' world, though he may not be much afflicted, if he fail of attaining
' his object :

37. ' To the quality of goodness belongs every act, by which he hopes
' to acquire divine knowledge, which he is never ashamed of doing
' and which brings placid joy to his conscience.

38. ' Of the dark quality, as described, the principal object is plea-
' sure ; of the passionate, worldly prosperity ; but of the good quality,
' the chief object is virtue : the last mentioned *objects* are superiour in
' dignity.

39. ' SUCH transmigrations, as the soul procures in this uni-
' verse by each of those qualities, I now will declare in order suc-
' cinctly.

40. ' Souls, endued with goodness, attain always the state of deities ;
' those filled with ambitious passions, the condition of men ; and those
' immersed in darkness, the nature of beasts : this is the triple order
' of transmigration.

41. ' Each

41. ' Each of those three transmigrations, caused by the several qualities, must also be considered as threefold, the lowest, the mean, and the highest, according to as many distinctions of acts and of knowledge.

42. ' Vegetable and mineral substances, worms, insects, and reptiles, some very minute, some rather larger, fish, snakes, tortoises, cattle, rhakals, are the lowest forms, to which the dark quality leads :

43. ' Elephants, horses, men of the servile class, and contemptible *Mlech'has*, or *barbarians*, lions, tigers, and boars, are the mean states procured by the quality of darkness :

44. ' Dancers and singers, birds, and deceitful men, giants and blood-thirsty savages, are the highest conditions, to which the dark quality can ascend.

45. ' *Jhallas*, or cudgelplayers, *Mallas*, or boxers and wrestlers, *Natas*, or actors, those who teach the use of weapons, and those who are addicted to gaming or drinking, are the lowest forms occasioned by the passionate quality :

46. ' Kings, men of the fighting class, domestick priests of kings, and men skilled in the war of controversy, are the middle states caused by the quality of passion :

47. ' *Gandharvas*, or aerial musicians, *Guhyacas* and *Yacshas*, or servants and companions of *CUVE'RA*, genii attending superiour gods, as the *Vidyadhavas* and others, together with various companies of *Apsarases* or nymphs, are the highest of those forms, which the quality of passion attains.

48. ' Hermits, religious mendicants, other *Bráhmens*, such orders of
 ' demigods as are wafted in airy cars, genii of the signs and lunar
 ' mansions, and *Daityas*, or the offspring of *DITI*, are the lowest of
 ' states procured by the quality of goodness :

49. ' Sacrificers, holy sages, deities of the lower heaven, genii of
 ' the *Védas*, regents of stars *not in the paths of the sun and moon*, di-
 ' vinities of years, *Pitrís* or progenitors of mankind, and the demigods
 ' named *Sádhyas*, are the middle forms, to which the good quality
 ' conveys *all spirits moderately endued with it* :

50. ' *BRAHMA* with four faces, creators of worlds *under him*, as
 ' *MARÍCHI* and others, the genius of virtue, the divinities presiding
 ' over (*two principles of nature in the philosophy of CAPILA*) *mahat*, or
 ' the *mighty*, and *avyaēta*, or *unperceived*, are the highest conditions, to
 ' which, by the good quality, souls are exalted.

51. ' This triple system of transmigrations, in which each class has
 ' three orders, according to actions of three kinds, and which comprises
 ' all animated beings, has been revealed in its full extent :

52. ' Thus, by indulging the sensual appetites, and by neglecting the
 ' performance of duties, the basest of men, ignorant of sacred expia-
 ' tions, assume the basest forms.

53. ' WHAT particular bodies the vital spirit enters in this world
 ' and in consequence of what fines her committed, now hear at large,
 ' and in order.

54. ' Sinners in the first degree, having passed through terrible re-
 ' gions of torture for a great number of years, are condemned to the
 ' following

‘ following births at the close of that period *to efface all remains of*
‘ *their sin.*

55. ‘ The slayer of a *Bráhmén* must enter *according to the cir-*
‘ *cumstances of his crime* the body of a dog, a boar, an afs, a
‘ camel, a bull, a goat, a sheep, a stag, a bird, a *Chandála*, or a
‘ *Puccasa*.

56. ‘ A priest, who has drunk spirituous liquor, shall migrate into
‘ the form of a smaller or larger worm or insect, of a moth, of a fly
‘ feeding on ordure, or of some ravenous animal.

57. ‘ He, who steals the gold of a priest, shall pass a thousand times
‘ into the bodies of spiders, of snakes and cameleons, of *crocodiles and*
‘ *other* aquatick monsters, or of mischievous bloodsucking demons.

58. ‘ He, who violates the bed of his *natural or spiritual* father,
‘ migrates a hundred times into the forms of grasses, of shrubs with
‘ crowded stems, or of creeping and twining plants, of *vultures and*
‘ *other* carnivorous animals, of *lions and other* beasts with sharp teeth,
‘ or of *tigers and other* cruel brutes.

59. ‘ They, who hurt any sentient beings, are born *cats and other*
‘ eaters of raw flesh; they, who taste what ought not to be tasted,
‘ maggots or small flies; they, who steal *ordinary things*, devourers of
‘ each other: they, who embrace very low women, become restless
‘ ghosts.

60. ‘ He, who has held intercourse with degraded men, or been
‘ criminally connected with the wife of another, or stolen *common*
‘ *things*

‘ *things* from a priest, shall be changed into a spirit, called *Brah-marácshasa*.

61. ‘ The wretch, who through covetousness has stolen *rubies* or
‘ *other* gems, pearls, or coral, or precious things of which there are
‘ many sorts, shall be born *in the tribe of goldsmiths, or among birds*
‘ *called hémacáras, or goldmakers.*

62. ‘ If a man steal grain in the husk, he shall be born a rat ;
‘ if a yellow mixed metal, a gander ; if water, a *plava*, or diver ; if
‘ honey, a great stinging gnat ; if milk, a crow ; if expressed juice,
‘ a dog ; if clarified butter, an ichneumon weasel ;

63. ‘ If he steal fleshmeat, a vulture ; if any sort of fat, the water-
‘ bird *madgu* ; if oil, a blatta, or oil-drinking beetle ; if salt, a cicada or
‘ cricket ; if curds, the bird *valáca* ;

64. ‘ If filken clothes, the bird *tittiri* ; if woven flax, a frog ; if
‘ cotton cloth, the waterbird *crauncha* ; if a cow, the lizard *gódbá* ;
‘ if molasses, the bird *vágguda* ;

65. ‘ If exquisite perfumes, a muskrat ; if potherbs, a peacock ; if
‘ dressed grain in any of its various forms, a porcupine ; if raw grain,
‘ a hedgehog ;

66. ‘ If he steal fire, the bird *vaca* ; if a household utensil, an ich-
‘ neumon-fly ; if dyed cloth, the bird *chacóra* ;

67. ‘ If a deer or an elephant, he shall be born a wolf ; if a horse,
‘ a tiger ; if roots or fruit, an ape ; if a woman, a bear ; if water
‘ from

‘ from a jar, the bird *chátaca* ; if carriages, a camel ; if small cattle,
 ‘ a goat.

68. ‘ That man, who designedly takes away the property of another,
 ‘ or eats any holy cakes not first presented *to the deity* at a solemn rite,
 ‘ shall inevitably sink to the condition of a brute.

69. ‘ Women, who have committed similar thefts, incur a similar
 ‘ taint, and shall be paired with those male beasts in the form of their
 ‘ females.

70. ‘ If any of the four classes omit, without urgent necessity, the
 ‘ performance of their several duties, they shall migrate into sinful
 ‘ bodies, and become slaves to their foes.

71. ‘ Should a *Bráhmen* omit his peculiar duty, he shall be changed
 ‘ into a demon called *Ulcámuc’ha* or *with a mouth like a firebrand*, who
 ‘ devours what has been vomited ; a *Cshatriya*, into a demon called
 ‘ *Catapútana*, who feeds on ordure and carrion ;

72. ‘ A *Vaishya*, into an evil being called *Maitrácshajyótica*, who
 ‘ eats purulent carcases ; and a *Súdra*, who neglects his occupations,
 ‘ becomes a foul imbodyed spirit called *Chailásaca*, who feeds on
 ‘ lice.

73. ‘ As far as vital souls, addicted to sensuality, indulge themselves
 ‘ in forbidden pleasures, even to the same degree shall the acuteness
 ‘ of their senses be raised *in their future bodies, that they may endure*
 ‘ *analogous pains* ;

74. ‘ And,

74. ' And, in consequence of their folly, they shall be doomed as
' often as they repeat their criminal acts, to pains more and more in-
' tense in despicable forms on this earth.

75. ' They shall first have a sensation of agony in *Támisra* or utter
' darkness, and in other feats of horror; in *Asipatravana*, or the
' swordleaved forest, and in different places of binding fast and of
' rending:

76. ' Multifarious tortures await them: they shall be mangled by
' ravens and owls, shall swallow cakes boiling hot; shall walk over
' inflamed sands; and shall feel the pangs of being baked like the
' vessels of a potter:

77. ' They shall assume the forms of beasts continually miserable,
' and suffer alternate afflictions from extremities of cold and of heat,
' surrounded with terrors of various kinds:

78. ' More than once shall they lie in different wombs; and, after
' agonizing births, be condemned to severe captivity, and to servile
' attendance on creatures like themselves:

79. ' Then shall follow separations from kindred and friends,
' forced residence with the wicked, painful gains and ruinous losses
' of wealth; friendships hardly acquired and at length changed into
' enmities,

80. ' Old age without resource, diseases attended with anguish,
' pangs of innumerable sorts, and, lastly, unconquerable death.

81. ' With

81. ' With whatever disposition of mind a man shall perform in this
' life any act *religious or moral*, in a future body endued with the
' same quality, shall he receive his retribution.

82. ' Thus has been revealed to you the system of punishments for
' evil deeds : next learn those acts of a *Bráhmén*, which lead to eternal
' bliss.

83. ' Studying and comprehending the *Véda*, practising pious au-
' sterities, acquiring divine knowledge *of law and philosophy*, command
' over the organs of sense and action, avoiding all injury to sentient
' creatures, and showing reverence to a *natural and spiritual* father,
' are the chief branches of duty which ensure final happiness.'

84. ' Among all those good acts performed in this world, *said the*
' *sages*, is no single act held more powerful than the rest in leading
' men to beatitude ?'

85. ' Of all those duties, *answered* BHRĪGU, the principal is to ac-
' quire from the *Upanishads* a true knowledge of one supreme GOD ;
' that is the most exalted of all sciences, because it ensures immor-
' tality :

86. ' In this life, indeed, as well as the next, the study of the *Véda*,
' to acquire a knowledge of GOD, is held the most efficacious of those
' six duties in procuring felicity to man ;

87. ' For in the knowledge and adoration of one GOD, which the
' *Véda* teaches, all the rules of good conduct, *beforementioned* in order,
' are fully comprised.

88. ' THE

88. ' THE ceremonial duty, prescribed by the *Véda*, is of two
 ' kinds; *one* connected with this world, and causing prosperity
 ' on earth; *the other* abstracted from it, and procuring bliss in hea-
 ' ven.

89. ' A religious act proceeding from selfish views in this world,
 ' *as a sacrifice for rain*, or in the next, *as a pious oblation in hope of a*
 ' *future reward*, is declared to be concrete and interested; but an act
 ' performed with a knowledge of GOD, and without self love, is
 ' called abstract and disinterested.

90. ' He, who frequently performs interested rites, attains an equal
 ' station with the regents of the lower heaven; but he, who frequently
 ' performs disinterested acts of religion, becomes for ever exempt from
 ' *a body composed of the five elements* :

91. ' Equally perceiving the supreme soul in all beings and all be-
 ' ings in the supreme soul, he sacrifices his own spirit by fixing it on
 ' the spirit of GOD, and approaches the nature of that sole divinity,
 ' who shines by his own effulgence.

92. ' Thus must the chief of the twiceborn, though he neglect the
 ' ceremonial rites mentioned in the *Sástras*, be diligent alike in attain-
 ' ing a knowledge of GOD and in repeating the *Véda* :

93. ' Such is the advantageous privilege of those, who have a double
 ' birth *from their natural mothers and from the gáyatrì their spiritual*
 ' *mother*, especially of a *Bráhmen*; since the twiceborn man, by per-
 ' forming this duty but not otherwise, may soon acquire endless fe-
 ' licity.

94. ' To

94. ' To patriarchs, to deities, and to mankind, the scripture is an
 ' eye giving constant light; nor could the *Véda Sástra* have been
 ' made by human faculties; nor can it be measured by human rea-
 ' son *unassisted by revealed glosses and comments*: this is a mere propo-
 ' sition.

95. ' Such codes of law as are not grounded on the *Véda*, and the
 ' various heterodox theories of men, produce no good fruit after death;
 ' for they all are declared to have their basis on darkness.

96. ' All systems, which are repugnant to the *Véda*, must have been
 ' composed by mortals, and shall soon perish: their modern date
 ' proves them vain and false.

97. ' The three worlds, the four classes of men, and their four
 ' distinct orders, with all that has been, all that is, and all that will
 ' be, are made known by the *Véda*:

98. ' The nature of sound, of tangible and visible shape, of taste,
 ' and of odour, the fifth object of sense, is clearly explained in the
 ' *Véda* alone, together with the three qualities of mind, the births at-
 ' tended with them, and the acts which they occasion.

99. ' All creatures are sustained by the primeval *Véda Sástra*, which
 ' the wise therefore hold supreme, because it is the supreme source of
 ' prosperity to this creature, man.

100. ' Command of armies, royal authority, power of inflicting
 ' punishment, and sovereign dominion over all nations, he only well
 ' deserves, who perfectly understands the *Véda Sástra*.

101. ' As fire with augmented force burns up even humid trees,
' thus he, who well knows the *Véda*, burns out the taint of sin, which
' has infected his soul.

102. ' He, who completely knows the sense of the *Véda Sástra*, while
' he remains in any one of the four orders, approaches the divine na-
' ture, even though he sojourn in this low world.

103. ' They, who have read many books, are more exalted than
' such, as have seldom studied; they, who retain what they have read,
' than forgetful readers; they, who fully understand, than such as only
' remember; and they, who perform their known duty, than such
' men, as barely know it.

104. ' Devotion and sacred knowledge are the best means by which
' a *Bráhmén* can arrive at beatitude: by devotion he may destroy guilt;
' by sacred knowledge he may acquire immortal glory.

105. ' Three modes of proof, ocular demonstration, logical inference,
' and the authority of those various books, which are deduced from
' the *Véda*, must be well understood by that man, who seeks a distinct
' knowledge of all his duties:

106. ' He alone comprehends the system of duties religious and civil,
' who can reason, by rules of logic agreeable to the *Véda*, on the ge-
' neral heads of that system as revealed by the holy sages.

107. ' These rules of conduct, which lead to supreme bliss, have been
' exactly and comprehensively declared: the more secret learning of
' this *Mánava Sástra* shall now be disclosed.

108. ' If

108. ' If it be asked, how the law shall be ascertained, when particular cases are not comprised *under any of the general rules, the answer is this*: "That, which well instructed *Bráhmens* propound, shall be held incontestible law."

109. ' Well instructed *Bráhmens* are they, who can adduce ocular proof from the scripture itself, having studied, as the law ordains, the *Védas* and their extended branches, or *Védángas*, *Mimánsà*, *Nyáya*, *Dhermasástra*, *Puránas*:

110. ' A point of law, *before not expressly revealed*, which shall be decided by an assembly of ten such virtuous *Bráhmens* under one chief, or, *if ten be not procurable*, of three such under one president, let no man controvert.

111. ' The assembly of ten under a chief *either the king himself or a judge appointed by him*, must consist of three, each of them peculiarly conversant with one of the three *Védas*, of a fourth skilled in the *Nyáya*, and a fifth in the *Mimánsà* philosophy; of a sixth, who has particularly studied the *Nirukta*; a seventh, who has applied himself most assiduously to the *Dhermasástra*; and of three *universal scholars*, who are in the three first orders.

112. ' One, who has chiefly studied the *Rigvéda*, a second, who principally knows the *Yajush*, and a third best acquainted with the *Sáman*, are the assembly of three under a head, who may remove all doubts both in law and casuistry.

113. ' Even the decision of one priest, *if more cannot be assembled*, who perfectly knows the principles of the *Védas*, must be considered

' as

‘ as law of the highest authority ; not the opinion of myriads, who
 ‘ have no sacred knowledge.

114. ‘ Many thousands of *Bráhmens* cannot form a legal assembly
 ‘ for the decision of contests, if they have not performed the duties of a
 ‘ regular studentship, are unacquainted with scriptural texts, and sub-
 ‘ sist only by *the name of* their sacerdotal class.

115. ‘ The sin of that man, to whom dunces, pervaded by the quality
 ‘ of darkness, propound the law, of which they are themselves ignorant,
 ‘ shall pass, increased a hundredfold, to the wretches who propound it.

116. ‘ This comprehensive system of duties, the chief cause of ulti-
 ‘ mate felicity, has been declared to you ; and the *Bráhmen*, who never
 ‘ departs from it, shall attain a superiour state above.

117. ‘ Thus did the allwise MENU, who possesses extensive do-
 ‘ minion, and blazes with heavenly splendour, disclose to me, from
 ‘ his benevolence to mankind, this transcendent system of law, which
 ‘ must be kept devoutly concealed *from persons unfit to receive it*.

118. ‘ LET every *Bráhmen* with fixed attention consider all nature,
 ‘ both visible and invisible, as existing in the divine spirit ; for, when
 ‘ he contemplates the boundless universe existing in the divine spirit,
 ‘ he cannot give his heart to iniquity :

119. ‘ The divine spirit alone is the whole assemblage of gods ; all
 ‘ worlds are seated in the divine spirit, and the divine spirit no doubt
 ‘ produces, *by a chain of causes and effects consistent with free will*, the
 ‘ connected series of acts performed by embodied souls.

120. ‘ He

120. ' He may contemplate the subtil ether in the cavities of his
 ' body; the air in his muscular motion and sensitive nerves; the su-
 ' preme *solar and igneous* light, in his digestive heat and his visual or-
 ' gans; in his corporeal fluids, water; in the terrene parts of his fa-
 ' brick, earth;

121. ' In his heart, the moon; in his auditory nerves, the guardians
 ' of eight regions; in his progressive motion, VISHNU; in his muscular
 ' force, HARA; in his organs of speech, AGNI; in excretion, MITRA;
 ' in procreation, BRAHMA':

122. ' But he must consider the supreme omnipresent intelligence as
 ' the sovereign lord of them all, *by whose energy alone they exist*; a
 ' spirit, *by no means the object of any sense*, which can only be conceived
 ' by a mind *wholly abstracted from matter, and as it were* slumbering;
 ' but which *for the purpose of assisting his meditation*, he may imagine
 ' more subtil than the finest conceivable essence, and more bright than
 ' the purest gold.

123. ' Him some adore as transcendently present in elementary fire;
 ' others, in MENU, lord of creatures, *or an immediate agent in the*
 ' *creation*; some, as more distinctly present in INDRA, *regent of the*
 ' *clouds and the atmosphere*; others, in pure air; others, as the most
 ' High Eternal Spirit.

124. ' It is He, who, pervading all beings in five elemental forms,
 ' causes them by the gradations of birth, growth, and dissolution, to re-
 ' volve in this world, *until they deserve beatitude*, like the wheels of a car.

125. ' Thus the man, who perceives in his own soul the supreme
 ' soul present in all creatures, acquires equanimity toward them all,
 ' and

‘ and shall be absorbed at last in the highest essence, even that of the
 ‘ Almighty himself.’

126. HERE ended the sacred instructor ; and every twiceborn man,
 who, attentively reading this *Mānava Śāstra* promulgated by BHRĪGU,
 shall become habitually virtuous, will attain the beatitude which he
 seeks.

GENERAL NOTE.

THE learned *Hindus* are unanimously of opinion, that many laws enacted by MENU, their oldest reputed legislator, were confined to the three first ages of the world, and have no force in the present age, in which a few of them are certainly obsolete; and they ground their opinion on the following texts, which are collected in a work entitled *Mandana ratna pradīpa*:

I. CRATU: In the *Cali* age a son must not be begotten *on a widow* by the brother of the deceased husband; nor must a damsel, once given away in marriage, be given a *second time*; nor must a bull be offered in a sacrifice; nor must a waterpot be carried *by a student in theology*.

II. VRIHASPATI: 1. Appointments of *kinsmen to beget children on widows, or married women, when the husbands are deceased or impotent*, are mentioned by the sage MENU, but forbidden by himself with a view to the order of the four ages: no such act can be legally done in this age by any others *than the husband*.

2. In the first and second ages men were endued with true piety and found knowledge; so *they were* in the third age; but in the fourth, a diminution of their *moral and intellectual* powers was ordained by *their Creator*:

3. Thus

3. Thus were sons of many different sorts made by ancient sages, but such cannot now be adopted by men destitute of those eminent powers.

III. PARA'SARA: 1. A man, *who has held intercourse with a deadly sinner*, must abandon his country in the first age; he must leave his town, in the second; his family, in the third age; but in the fourth he needs only desert the offender.

2. In the first age, he is degraded by mere conversation with a degraded man; in the second, by touching him; in the third, by receiving food from him; but in the fourth, the sinner alone bears his guilt.

IV. NA'RADA: The procreation of a son by a brother *of the deceased*, the slaughter of cattle in the entertainment of a guest, the repast on fleshmeat at funeral obsequies, and the order of a hermit *are forbidden or obsolete in the fourth age*.

V. A'ditya purāna: 1. What was a duty in the first age must not *in all cases* be done in the fourth; since, in the *Calī yuga*, both men and women are addicted to sin:

2. Such are a studentship continued for a very long time, and the necessity of carrying a waterpot, marriage with a paternal kinswoman, or with a near maternal relation, and the sacrifice of a bull,

3. Or of a man, or of a horse: and all spirituous liquor must in the *Calī* age be avoided by twiceborn men; so must a second gift of a married young woman, *whose husband has died before consummation*, and the larger portion of an eldest brother, and procreation on a brother's widow or wife.

VI. Smṛiti:

VI. *Smṛiti*: 1. The appointment of a man to beget a son on the widow of his brother ; the gift of a young married woman to another bridegroom, *if her husband should die* while she remains a virgin ;

2. The marriage of twiceborn men with damsels not of the same class ; the slaughter, in a religious war, of *Bráhmens*, who are assailants with intent to kill ;

3. Any intercourse with a twiceborn man, who has passed the sea in a ship, even though he have performed an expiation ; performances of sacrifices for all sorts of men ; and *the necessity of* carrying a waterpot ;

4. Walking on a pilgrimage till the pilgrim die ; and the slaughter of a bull at a sacrifice ; the acceptance of spirituous liquor, even at the ceremony called *Sautrámani* ;

5. Receiving what has been licked off, at an oblation to fire, from the pot of clarified butter ; entrance into the third order, or that of a hermit, though ordained *for the first ages* ;

6. The diminution of crimes in proportion to the religious acts and sacred knowledge *of the offenders* ; the rule of expiation for a *Bráhmen* extending to death ;

7. The sin of holding any intercourse with finners ; the secret expiation of any great crimes except theft ; the slaughter of cattle in honour of eminent guests or of ancestors ;

8. The filiation of any but a son legally begotten or given in adoption *by his parents* ; the desertion of a lawful wife for any offence less than actual adultery :

9. These *parts of ancient law* were abrogated by wise legislators, as the cases arose at the beginning of the *Cali* age, with an intent of securing mankind from evil.

On the preceding texts it must be remarked, that none of them, except that of VRIHASPATI, are cited by CULLU'CA, who never seems to have considered any other laws of MENU as restrained to the three first ages; that the *Smṛiti*, or sacred code, is quoted without the name of the legislator; and that the prohibition, in any age, of *self-defence*, even against *Brāhmens*, is repugnant to a text of SUMANTU, to the precept and example of CRISHNA himself, according to the *Mahābhārat*, and even to a sentence in the *Vēda*, by which every man is commanded *to defend his own life from all violent aggressors*.

THE
MAHOMEDAN LAW
OF
SUCCESSION
TO
THE PROPERTY OF INTESTATES,
IN
ARABICK,

ENGRAVED ON COPPER PLATES

FROM

AN ANCIENT MANUSCRIPT:

WITH

A VERBAL TRANSLATION, AND EXPLANATORY NOTES.

THE

PREFACE.

NOTHING more seems necessary, in order to explain the object of the following work, than barely to cite the late statute concerning *the administration of justice in BENGAL*; by the *seventeenth* section of which it is enacted, “ That the Supreme Court of Judicature at *Fort William* shall have full power to *hear and determine* all manner of actions “ and suits against the inhabitants of *Calcutta*, provided that their “ *inheritance and succession to lands, rents, and goods*, and all matters of “ contract and dealing between party and party, shall be determined, “ *in the case of Mahomedans, by the laws and usages of MAHOMEDANS*, “ and, where only *one* of the parties shall be a Mahomedan, by the “ laws and usages of *the defendant* :” by the *twenty-first* section, the *provincial* courts of *Adálet*, or *Justice*, are expressly recognised, and the powers of the governor and council, as the *Sedr Adálet*, in determining civil causes on appeals from those courts, are fully established in conformity to the old *Mogul* constitution.

But it may naturally be asked, how the judges of the Supreme Court, the provincial councils and council general, in *India*, or the great court of appeal in this kingdom, can justly exercise their several powers in suits between *Mahomedan* parties, without being at all acquainted with the law, by which they are bound to decide. Perpetual references to native lawyers must always be inconvenient and precarious; since the
solidity

solidity of their answers must depend on their integrity, as well as their learning; and at best, if they be neither influenced nor ignorant, the court will not in truth *bear and determine* the cause, but merely pronounce judgement on the report of other men.

For these reasons it appears indubitable, that a knowledge of *Mahomedan* jurisprudence (I say nothing here of the *Hindú* learning), and consequently of the *languages* used by *Mahomedan* writers, are essential to a complete administration of justice in our *Asiatick* territories; a knowledge I mean, though not equal to that of the MUFTI at *Constantinople*, yet sufficient for the purpose of keeping a check over the native counsellors, of understanding and examining their opinion, and of rejecting or adopting it, as it may be opposed or supported by their books of allowed authority, to which they should constantly refer.

A considerable number of those books have been brought to *England* by the curious in different ages, and are now repositied in our Academical libraries: in the *Bodleian*, especially, we have many treatises and dissertations in *Arabick* on *wills, inheritances, contracts*, and other important heads; particularly in the fine collection made at *Aleppo* by the learned Pocock, from one of whose most valuable manuscripts (n. 33.) this little work has been traced through transparent paper, and engraved with such accuracy, that the plates must have equal authority in *Asia* with the original pages, which are near *five hundred years* old.

The author, a native of *Alrahaba*, in *Mesopotamia*, was himself an IMAM; and his decisions are, on that account, considered as binding by the sect of *Ali*, which the *Indian*, as well as the *Persian*, Mahomedans profess; but IBNO'LMOTAKANNA informs us, that he drew his knowledge from the fountain head, and has epitomised the system of *Zaid*, who was recommended by MAHOMED himself as the surest interpreter

preter of his laws, and who had been implicitly followed by SHAFIEI, the first writer on *Mahomedan* jurisprudence, in the *eighth* century of our era, and composer of the *Osul*, or *Principles* of law, with other tracts highly valued by the learned of his religion and country.

Hence it is certain, that the *Bigyato'l bâbith* may be cited, as a book of authority, in all the *Musleman* courts; and the *European* reader must not be surprised, to see such a work written in a kind of loose metre, and even in rhyme: a *lawtract in verse* conveys, indeed, rather a ludicrous idea, since poetry belongs to *imagination*, which law, whose province is pure *reason*, wholly excludes; but *verse*, as numberless instances prove, *is not always poetry*; and a regular measure is so considerable an aid to the *memory*, that, if the *metrical abridgement of Coke's Reports* were more accurate, and the couplets a little smoother, every student should be advised to get it by heart. I may add, without enlarging upon the *Agathyrsi* and the *Turdetani*, who, as we are told by *Aristotle* and *Strabo*, had *laws in verse of the remotest antiquity*, that the *ALCORAN* itself, the great source of *Mahomedan* law, is composed in sentences not only modulated with art, but often exactly rhymed; so that in *Asia* this apology would have been needless. Verbal translations are generally naked and insipid, wholly destroying all the neatness and beauty of the original, yet retaining so much of the foreign idiom and manner, as to appear always uncouth, often ridiculous; but elegance, on a subject so delicate as law, must be sacrificed without mercy to exactness; and for this reason I have rendered the *Arabian* treatise, line for line, and word for word, with a fidelity almost religiously scrupulous.

As it was never my intention to compose a perfect work upon the law of inheritances among the *Mahomedans*, it cannot be reasonably expected, that I should subjoin a commentary, or prefix a long discourse:

course: very few marginal notes were thought necessary; but, if the brevity of the original should make parts of it rather obscure, the *British* lawyers in *India*, for whose use chiefly this production was designed, will easily obtain a clear explanation both of the language and matter from native interpreters.

The *fourth* chapter of the *Alcoran* may throw light, if any be wanted, on the doctrine of the *forúdh* or *portions*; and, as to the *arithmetical* part, it seems of little consequence, as our rules of *three*, and those for the reduction of *fractions*, are common and familiar to all.

The present publication will answer, I conceive, another purpose by no means unimportant; as it will habituate the student of eastern languages to the reading of old *Arabian* manuscripts; but, lest the handwriting of the very learned *Saad Al Sivási*, for that was the name of the transcriber, should perplex beginners, I have printed the whole tract, for their sake, in *Roman* letters, distinguishing every consonant and *long* vowel (the *short* ones are too vague and indeterminate) by a character invariably appropriated to it; so as to give every full sound its own specifick symbol; an advantage, which hardly any alphabet has, but which all ought to have.

Your very obedient

humble servant

The Right Honourable Henry Dundas, Esq.

Bigyaho

Calcutta, March 1, 1794.

SIR,

THE Institutes of Hindu Law have been very correctly printed, and the whole impression has just been sent to the Governor and Council, who will not fail to transmit copies for the King's library, for yourself, and for the Directors. If I had obtained his Majesty's leave to resign my office, nothing would now keep me here, but the Digest of Indian Laws, consisting of nine large volumes, two of which remain to be collated and studied with the learned Bráhmén, who assists me: he is old and infirm; but, should he be able to attend me another year, or two years at the very utmost, the whole work will be finished, and I shall copy it during my voyage, if the King shall graciously permit me to leave India.

I, therefore, intreat you, Sir, to lay before his Majesty, my humble supplication for his gracious permission to resign my judgeship in the year 1795, or (if the Digest should not then be completed) in 1796; it being my anxious wish to pass the remainder of my life in studious retirement, though devoted, as I ever have been, to the service of my King and my Country, and of that recorded Constitution, which is the basis of our national glory and felicity.

I have the honour to be, Sir,

your very obedient,

humble Servant.

The Right Honourable Henry Dundas, Esq.

Bigyaho' 'lbáhhithi ân jumali 'lmowáarithi

nadhmo' 'lshaíkhi álímámi álâálimi

mowáfiki 'ldeíni ábeí âbdillahi

mohhammedi 'bni âleí íbni 'lhofaíni

álrahhabiyyi álmârufi bi 'bni 'l

motakannahi rahhamaho állaho taâálaí.

Einige Jahre nachher, als ich in die Welt trat,

Big Game, die ich in der Jugend erwarb,

war das, was ich in der Jugend erwarb,

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Bismi 'llahi álahhmani álahheími wabihi nestaeíno.

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- [1] áwwalo má nestastihho 'lnekálá
 bidhicri hhamdi rabbiná taáálá
 fálhhamdo lillahi álaí má ánámá
 hhamdán bihi nejlúá áni 'láini 'lámá
 thomma álsalwaho bâdo wálfalámo
 álaí nebiyyín deínoho álíflamo
 mohhamemdin' khátimi rusli rabbihi
 waálihi min bâdihi wasahhbihi
 wanefalo 'llaha liná 'líáánahá
 feímá tawakhkhaíná min álíbánahá
 ân medh-hebi 'límámi zaídi 'lfaradheí
 ídh cána dháca min áhammi 'lgaradhi
 îlmán' biánna 'lîlmo áúfá má soeí
 feíhi waáúlá má leho 'lâbdo doeí
 waánna hadhá 'lîlma makhsúson' bimá
 kad fháâa feíhi înda culli 'lûlemá

waánna zaídán khuśśa lá mahhálah
 bimá hhabáho sáhhibo 'lrisálah
 min kaúlihi feí fadhlihi monabbehá
 áfradhacom zaídon wanáheíca behá
 facána áulaí be-íttibái 'ltábiî
 lá fiyyamá wakad nahháho 'lsháfíêí
 faháca feíhi álkaúla bi'leíjazi
 mobarraán min kasmaí 'lalgázi
 áfbábo meiráthi 'lwaraí theláthah
 cullon yofeído rabbaho 'lwiráthah
 wahaí nicáhhon' waweláon' wanaśab
 má bâdahonna lilmawáreíthi fabab.

[2] wayamnaô 'lshakhśa min álmeiráthi
 wáhhidaón' min ílalin' theláthi
 rikkon' wakatlon' waákhtiláfo deíni
 faáfham falaífa 'lshacco cályakeíni
 wálwáarithúno feí 'lrijáli ásharah
 áfmáwahom mârúfahon' mushtaharah
 álíбно wa'bno 'líbni mahmá nazalá
 wa'lábo wa'ljeddo leho waín álá
 wálákho min áyyi 'ljeháti cáná
 kad ánzela 'llaho bihi 'lkorána
 wábno 'lákhi 'lmodleí ílaíhi bi'lábi
 fásmâ mekálán' laífa bi'lmucadhdhabi
 wa' lâmmo wábno 'lâmmi min ábeíhi
 fáhcor ledheí 'leíjazi wáltanbeíhi
 wálzaújo wálmôtiko dhú 'lwelái
 fajumlaó 'ldhucúri hawolái

wálwáaritháto cullohinna febô
 lam yâthi óntheí gaírahonna 'lsherô
 binton' wabinto 'bniñ waómmon' muhfikah
 wajaddahon' wazaújahon' wamôtikah
 wálákhto min áyyi 'ljeháti cánat
 fahadhihi îddatohá kad bánat
 wáâlam biánna 'lírtha nauâáni homá
 fardhon' watâséíbon' âlaí ma kofimá
 fáfardho feí nâssi 'lcitábi fittah
 lá fardho feí 'lírthi fiwáhá bittah
 nisfon' warubôn' thomma nisfo 'lrubî
 wálthultho wálfudfo binâssi 'lsherî
 wálthultháni wahomá áltemámo
 fáhhfadh' facullo hháfidh'in' ímámo

- [3] fálnisfo fardho khamfahin' áfrádi
 álzaújo wálonthái min áláúladi
 wabinto 'lîbni înda fakdi 'lbinti
 wálákhto feí medh-hebi culli mufteí
 wabâdahá 'lákhto 'llati min álábi
 înda ánfirádihinna min moâssibi
 wálrubô fardhá 'lzaúji ín cána maâh
 min waladi 'lzaújahi men kad menaâh
 wahú leculli zaújahin' áú áctherá
 mâ âdami 'láúladi feímá kadderá
 wálthomno lilzaújahi wálzaújáti
 mâ álbeneína áú mâ álbenáti

áú maa áúládi 'lbeneíni fáálemeí
 wábek le-ítkári 'ldurúfi wáslemeí
 waálthúltháni lilbenáti jemáa
 má záda ân wáhhidahi fáfemáa
 wahúa cadháca lebenáti 'líbni
 fáfham mekáleí fahma sáfeí 'ldhihni
 wahúa liákhtaíni femá yezeído
 kadháí bihi 'láhháro wálâbeído
 hadhá ídhá cunna liómni waábi
 áú liábi fáâmel bihadhá tosibi
 wálthultho fardhó 'lómni hhaítho lá weled
 wela mina 'lákhwahi jemô waâded
 cáthnaíni áú thintaíni áú theláthi
 hocmo 'ldhucúri feíhi cálináthi
 waín yecun zaújon' waómon' waábo
 fathultho 'lbakíyo lehá morattabo
 wahacadhai mâ zaújahín' fasáîdá
 felá tecun mina 'lúlúmi káîdá

- [4] wálthultho liláthnaíni áú thintaíni
 min weledi 'lómni bigaíri maíni
 wahacadhai ín catharúá farádúá
 fema lehom feímá fiwáho zádo
 watastawái 'línátho wáldhucúro
 feíhi camá kad áúdháhho 'lmeftúro
 wálfudfo fardhó febâhín' mina 'lâded
 ábon' waómmon' thomma binto'bni wajedd

wálókhto binto 'lábi thomma 'ljeddah
 waweledo 'lómme temámo 'liddah
 fálábo yestahhikkoho mâa 'lweled
 wahacadhaí 'lómme betenzeíli 'lsemed
 wahú lehá áydhán' mâa 'láthnaíni
 min íkhwahí 'lmaíti fakis hadhaíni
 wáljeddo mithlo 'lábi înda fakdihi
 feí jeza má yeseíboho wameddihi
 íllá ídhá cána honáca íkhwah
 licaúnahom feí 'lkurbi wahú áfwah
 wahhucmohim wahhucmoho seyáteí
 mocammela 'lbayána feí 'lhháláti
 wabinto 'líbni tákhodh álfudfa ídhá
 cánat mâá 'lbinti mithálá yahhtadhaí
 wahacadhaí 'lókhto mâa 'lókhti 'llataí
 biálábawaini yá ókhayyo ádlata
 faín tefáwaí nesebo 'ljeddáti
 wacunna cullahonna wáaritháti
 fálfudfo baínahonna biálfawiyah
 feí 'lkismahí 'láádilahí 'lsherîyyah
 wacullo men ádlat bigaíri wáarithi
 femá lehá hhadh'dhón' mina 'lmawáarithi.

- [5] watafkotho 'lbôdaí bidháti 'lkurbi
 feí 'lmedh-hebi 'láúlaí fakol leí hhaíbeí
 wakad tenáhat kismahó 'lforúdhi
 bigaíri íshcáli welá gomúdhi

wahhokka án neſhraâ feí 'ltâſeíbi
 biculli kaúlin' mújizin' muſeíbi
 facullo men áhhraza culla 'lmáli
 mina 'lkarábati áú álmawáleí
 áú cána má yafdhólo bâda 'lfardhi leh
 fahú ákhú 'lâſúbaſi 'lmofadhdhaleh
 cálabi wáljeddi wajeddi 'ljeddi
 wálíbní înda kurbíhi wálbôdi
 wálákhi wábni 'lákhi wálââmámi
 wálſayyidi 'lmôtiki dheí 'línâámi
 wahacadhaí benúohom jemeíâán
 facun lemá ádhçoroho ſemeíâán
 wamá ledheí 'lbôdi mâa 'lkareíbi
 feí 'lírthi min hhadhdhín' wela neſeíbi
 wálákho wálâmmo liómmín' waábi
 áulaí mina 'lmodleí biſhathri 'lnaſabi
 wa'libno wálákho mâa 'línáthi
 yoâſſibánahinna feí 'lmeíráthi
 walaíſa feí 'lniſáí thurrán' áſabah
 íllá 'llataí mennat bi îtki 'lrakabah
 wálákhawáto ín yecun benáto
 fahonna bâdahonna áſabáto
 wa'ljeddo mahhjúbón' âni 'lmeíráthi
 bi'lábi feí áhhwálihi 'ltheláthi
 wahacadhaí 'bno 'libni bi'libni felá
 tabig âni 'lhacmi 'lſáhheíhhi mâdilá

[6] watafkothó 'ljeddáto min culli jiheh
 bi 'lómme fáhhfadh'-ho wakis má áshbeheh
 watafkothó 'líkhwahó bi'lbeneína
 wabi'lábi 'ládnaí camá ruweína
 áú bibeneí 'lbeneína hhaítho cánúa
 fiyyáni feíhi 'ljemâ wa'lwahhdáno
 wayafdholo'bno 'lómme bi'lískáthi
 bi'ljeddi fáhhfadh'-ho álaí íhhtiyáthi
 wabi 'lbenáti wabenáti 'líbni
 facun bihhifdhí 'lílmi jiddán' mōneí
 thomma benáto 'líbni yeskothna metaí
 hháza 'lbenáto álhulthaína yá fetaí
 íllá ídhá ássabahonna áldhacaro
 min welidi 'líbni álaí má dhacarúa
 wabâdahonna 'lakhawáto 'llataí
 yodleína bi'lkurbi min áljiháti
 ídhá ákhádna fardháhonna wáfiyá
 áfkathna áúláda 'lábi 'lbawáciyá
 waín yecun ákho lehonna hhádhírán
 áâsabahonna bathínán wadháhirán
 walaífa íbno'lákhi bi'lmoâssabi
 men mithlaho áú faúkaho feí 'lnafabi
 waín tajid zaúján waómmán wáarithá
 waíkhwahán' lílómme hházúa 'lthulothá
 waákhwahán' áydhán' líómme waábi
 waástugrika 'lmálo bifardhi 'lnoóobi

fájalahomo cullohomo liómmi
 waáhhfib ábáhom hhajarán feí 'lyammi
 wákfim álaí 'líkhwahí thultha 'ltaricah
 wahadhihi 'lmeselaho 'lmuhtaracah

[7]

wálana nebdá bi'lladhai áradná
 feí 'ljeddi wa'líkhwahí ídh waâdná
 faálik nahhaú má ákúlo 'lmifmaâá
 wájmâ hhawásheí 'lcelamáti ájmaâá
 wáâlem biánna 'ljeddo dhú áhhwáli
 ónbeíca ánhonna álaí 'ltawáleí
 fakáfimo 'líkhwahí feíhonna ídhá
 lam yaôdi 'lkafmo álaíhi bi'ládhai
 fatárahan' yákhodho thulthan' cámilán
 ín cána bi'lkifmahí ángo názilán
 ín lam yecun feíhim dhawú fihámi
 fáknâ biáydáhheí áni ístifhámi
 watárahan' yákhodho thultha 'lbákeí
 bâda dhawéi 'lforúdhí wa'lárzáki
 hadhá ídhá má ádh'-hhati 'lmokáfamah
 tenkošo áni dháci bi'lmezáhhamah
 watárahan' yákhodho sudfa 'lmáli
 walaífa ángo názilán bihháli
 wahaú mâa 'línáthi înda 'lkafmi
 mithlo ákhin' feí fahmihi wa'lhhocmi
 wáhhfeb beneí 'lábi ledaí 'lídádi
 wárfodh' beneí 'lómmi mâa 'lájádi

wáhhcom âlaí 'líkhwahí bâda 'lâddi
 hhocmaca feíhim înda fakdi 'ljeddi
 wálókhto lá fardhó mâa 'ljeddi lehá
 feímá âlá meselahan' cammalehá
 zaújon' waómmon' wahomá temámohá
 fáâlem fakhaíro ómmahin âllámohá
 tôrafo yá sáhhi bi'lácdariyyah
 waheí bián tahhfadhó-há hhariyyah

- [8] fayofradhó 'lništo lehá wa'lfudfo leh
 hhataí tâúli bi'lforúdhí 'lmojmeleh
 thomma yaûúdani ílaí 'lmokáfameh
 camá madhaí fáhhfadh'-ho wáshcor nádhimeh
 waín torid mârifahá 'lhhifábi
 letentahá feíhi ílaí 'lsawábi
 watârifo 'lkiřmaha wa'ltafseílá
 watâlim âlsahheíhha wa'lósúla
 fástakhriji 'lósúla feí 'lmesáyili
 walá tecun ân hhifdhíhá bidháhili
 wahaí ídhá fósřila feíhá 'lkaúlo
 thelethahon' yedkholo feíhá 'lâúlo
 wabâdahá árbaâhon' temámo
 lá âúla yârúhá welá ínihilámo
 fálfudfo min fittahí ás-homin' terá
 wálthultho wa'lrubô min áthnaí âřhará
 wálthumno ín dhomma ílaíhi 'lfudfo
 faásloho 'lsádiko feíhi 'lhhadfo

[9]

árbaâhon' yatbaôhá îfhrúná
 yârifohá 'lhhufábo ájmaûúná
 fahadhihi 'lthelethaho 'lósúlo
 ín caththorat forúdhohá taûúlo
 fatablogo 'lfittaô ákda 'lâfhareh
 feí súrahín mârúfahín muftathareh
 watalhhako 'llataí teleíhá fei 'láthar
 fei 'lâuli áfrádán besebâhi âshar
 wa'lâdado 'lthálitho kad yaûúlo
 bithumnihi fáâmel bimá ákúlo
 wa'lnisfo wa'lbakeí áwi'lnisfáni
 áslhomá fei hucmihom áthnáni

- [9] wa'lthultho min thelethahín yecúno
 wa'lrubô min árbaâhín mefnúno
 wa'lthumno ín cána famin themániyah
 fahadhihi haí 'lósúlo 'lthániyah
 lá yedkholo 'lâulo âlaíhá fáâlemi
 thomma ásloca 'ltás-hheíhi feíhá wákfimi
 faín tecun min áslíhá tasíhhho
 fatarco tathweíli 'lhhifábi ribhho
 fáâthi cullán fahmaho min áslhi
 mocammilán aú âáyilán min âúlihi
 waín teraí 'lfiháma laífa tankafim
 âlaí dhaweí 'lmeíráthi fátbâ má rufim
 wáthlob thareíka 'líkhtisári fei 'lâmal
 bi'ldharbi wa'lwafki yojánibca 'lzelel

wárdod ílaí 'lwafki 'lladhaí yowáfiko
 wádh'ribho feí 'lásli waánta 'lhhádiko
 ín cána jinfán' wáhhidán' áú áctherá
 fahhfadh' wadâ ánca 'ljidála wa'lmirá
 waín teraí 'lcathra âlaí ájnáfi
 faínnahá feí 'lhucmi înda 'lnáfi
 tohhsaro feí árbaâhin' ákfâmi
 yârifohá 'lmáhiro feí 'láhhcâmi
 momáthilon' min bâdiho monáfibo
 wabâdaho mowáfikon' mosahhibo
 wa'lrâbiô 'lmobáyino 'lmokhálifo
 yonbeíca ân tafséílihinna 'lâárido
 fakhodh mina 'lmomáthilaíni wáhhidá
 wakhodh mina 'lmonáfibaíni 'lzáyidá
 wakhodh jemeíâ 'lâdadi 'lmobáyini
 wadh'ribho feí 'ltháneí welá todáhini

- [10] wádh'rib jemeíâ 'lwafki feí 'lmowáfiki
 wásloc bidháca ánhaja 'ltharáyiki
 wádh'ribho feí 'lásli 'lladhaí taássilá
 waáhh'si má ándhamma wamá tahhaássalá
 waákfimho fa'lkaíma ídhá 'sahheíhho
 yârifoho 'láájemo wa'lfaseíhho
 fahadhihi mina 'lhhifábi jumalo
 yáteí âlaí mithálihinná 'lâmalo
 min gaíri tath'weílin' welá 'âtifáfi
 fáknâ bimá feíhinna fahú cáfi

waín yemut ákharo kabla 'lkiřmah
 fahhakkiki 'lřihámi wáârif kiřmah
 wájâl leho meřalahán ókhraí lemá
 kad bayyana 'ltařseíla feímá koddimá
 wándhor faín wáfakati 'lřihámo
 fakhodh hodeíta wafkohá temámo
 wádhribho áú jemeíâhá feí 'lřábikah
 ín lam yecun baínahomá mowáfakah
 řálás-homo 'lókhraí fafeí 'lřihámi
 todhrebo áú feí wafkihá temámi
 wacullo řahmin' feí jemeíâ 'lthániyah
 yodhrebo áú feí wafkihá âlániyah
 řahadhihi thareíkaño 'lmonářakhah
 řárka bihá rutbahá řadhli řhámikhah
 waín yecun feí muřtahhakki 'lmáli
 khonthaín řahheířhon bayyana 'lřřcáli
 řákřim âlaí 'lákalli wa'lyekeíni
 tahdhâ bihakki 'lkiřmahí 'lmobeíni
 wahacadhaí hucmo dhawáti 'lřhamli
 yobnaí âlaí 'lyekeíni wa'lákalli

- [11] waín yemut kaúmon' bihadmin' áú garak
 áú řhádithin' âmma 'ljemeíâ ca'lhharak
 walam yecun yôlemo řhálo 'lřábiki
 řalá yowarrath nářikon' min nářiki
 taôddohom caínnahom ájánibo
 wahacadhaí 'lráyyo 'lřadeído 'lřáyibo

wakat átaí 'lkaúlo álaí má sheíná
 min kismahi 'lmeiráthi ca yebeíná
 álaí thareíki 'lramzi wa'líshárah
 molakhkhasán' biáújezi 'libárah
 fa'lhamdo lillahi álaí 'ltemámi
 hhamdán' catheírán' tomma feí 'ldawámi
 wanaíalo 'láfwa áni 'ltakseíri
 wakhaíra má námolo feí 'lmeíseíri
 wagafra má cána mina 'ldhonúbi
 wafatra má cána mina 'lôyúbi
 waáfðhalo 'lsalwaíhi wa'ltasleími
 álaí 'lnebiyyi 'lmustháfaí 'lcereími
 mohammedín' khaíri 'lánámi 'lâákibi
 waálihi 'lgurri dhawéi 'lmenákibi
 wasahhbihi 'lafáðhili 'lábrári
 álsífwahí 'lámáthili 'lákhyári
 wahhafboná 'llaho wanîma 'lcáfeí
 dhú 'lîzzi wa'lkodraíhi wa'láltháfi

tummat wa'lhamdo lillahi
 rabbi 'lâálemeíni wasálwátoho
 wafelámoho álaí fayyidíná
 mohammedín' álnebiyyi 'lómmyi
 waálaí álihi wasahhbihi
 álthayyibeíni álthahereíni
 láílahó 'ljemaâh liárbaâi liyáli
 khalaúna min shewáli finnah

áthneí âshari wasebâ máyihi
 yetheki bi'llahi taâálaí
 fakhro 'lǎbikáneí
 âfá 'llaho ânho.

تالله اني قد فعلت
 بما اوتيتني من ربي
 فاعوذ بالله من
 عذاب النار

بَحْيَةُ الْبَاحِثِ عَنْ جَمَلِ الْمَوَارِثِ
نَظْمُ الشَّيْخِ الْإِمَامِ الْعَالِمِ سُوقِ الدِّينِ
لِـ عَبْدِ اللَّهِ مُهْمِدٍ عَلَى الْحَبِيبِ الرَّحْمَنِ الْمَعْرُوفِ
بِابْنِ الْمُتَقَنَّةِ رَحِمَهُ اللَّهُ تَعَالَى

*This & Plates. 1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. to follow each
other in Vol. 3. page. 489.*

بسم الله الرحمن الرحيم
اول ما تفتح المقالات بحمد ربنا
فالحمد لله على ما انعم به علينا
ثم الصلوة بعد السلام على نبي دينه الاسلام
محمد خاتم النبيين وآله من بعده وصحبه
وسئل الله لنا الاعانة فيما نؤتيه من الابناء
عن نذهب الامام زيد القزويني اذ كان ذاكر من اهل البيت
عليه السلام العليم اوفيا ما شئ فيه واوفا له العبد
وان هذا العلم مخصوص بما قد شاع فيه عند كل العلم
وان زيد اخشى لا يحاله بما خياه صاحب الرسا
من قوله في فضله منتهيا افرضكم زيدا وناهيكم
فكار اولي بالشياع التابع لا يتبع وقد جاءه الشافعي
فهاك فيه القول بالانجاز من ضمنه الالف
استبانت ميراث الوراث ثلاثة كل يعبد الله والوراث
وهو نكاح وولاة ولستب ما بعدهن للموارث متب

ص

١

وَمَنْعَ الشَّخْصِ مِنَ الْمِيرَاثِ وَاحِدَةً مِّنْ عِلَلٍ ثَلَاثَ
 رُفُوفٍ قَتْلٌ وَاخْتِلَافٌ دِينٌ وَفَقْدُ قَلْبِ الشَّكِّ كَالْبَقَرِ
 وَالْوَارِثُونَ فِي الدَّخْلِ عَشْرَ أَشْهُاءٍ مَّعْرُوفَةٍ مِّنْهُمْ
 الْإِنْسُ وَابْنُ الْإِنْسِ مِمَّا تَزَلُّ الْأَلْبَابُ وَالْمُجْدَلَةُ وَارْعِلَا
 وَالْأَخُ مِرَاثِي الْجِهَاتِ كَمَا قَدْ أَنْزَلَ اللَّهُ فِيهِ الْقُرْآنَ
 وَابْنُ الْأَخِ الْمُؤْتَى إِلَيْهِ بِالْأَبِ فَاسْتَعْمَلُوا لَيْسَ بِالْمُكْرَبِ
 وَالْعَمُّ وَابْنُ الْعَمِّ مِرَاثِيهِ فَاسْتَعْمَلُوا الْأَعْمَارَ وَالنَّسَبَ
 وَالرُّوحَ وَالْمُعْتَرِفَ وَالْوَلَاةَ وَجَمْلَةَ الدُّكُورِ هُوَ لَا
 وَالْوَارِثَاتُ كُلُّهُنَّ سَعَى لَمْ يَعْطِ أَتَى غَيْرَ هَذَا الشَّرْعِ
 بِنْتُ وَبِنْتُ ابْنِ مَرْثِيَةٍ وَجَدَتْ وَزَوْجَةً وَمُعْتَقَةً
 وَالْأَخْتُ مِرَاثِي الْجِهَاتِ كَانَتْ فَهِيَ عَدَّتْهَا تَدَانِي
 وَأَعْلَمُ أَنَّ الْأَرْثَ نَوَاعِي هِيَ قَرْنٌ وَتَعْصِبَتُ عَلَى قَسَمِهَا
 فَالْقَرْنُ ٢ نَصُّ الْكِتَابِ شَتَّى لَا يَصْنُ الْأَرْثَ سَبَوَاهَا تَدَانِي
 نَصْفٌ دَرَجَتَانِ نَصْفُ الرُّبْعِ وَالثَّلَاثُ وَالْإِسْدَنْ نَصُّ الشَّرْعِ
 وَالتَّلَاوُفُ هُمَا التَّمَامُ فَحَافِظٌ وَكُلُّ حَافِظٍ أَمَامُ مَرْ

فالنصف فرض ختمه ابدأ الروح والاشي سر الاول
 وبنيت الابن عند قديس البنات والاخت في مذهب كل مفتي
 وتعد لها الاخت التي من الاب عند افراد هت من مقصود
 والذم نرض الروح ان كان معه من ولد الذمعة من مفعلة
 وهو كل روجه او اكثر مع عدم الاولاد فيها قدرا
 والتمس للزوج والزوجات مع البنين ومع البنات
 او مع اولاد البنين فالعلم والبن لا تقارب الذمعة واسلم
 والتلنار للبنات جمعا ما زاد عن حيلة فتمت
 وهو كذا للبنات الابن فافهم مقالي فهم صافي الذمعة
 وهو لا خبير فها يند قصص له الاحرار والخبير
 هذا اذا كان الامم واب اولاد فاعمل بعدا نصيب
 والثلث فرض الامم حيث لا ولد ولا من الاجرة جمع وعده
 كاشنير وبنين اولاد حكم الذمعة فيه كالفان
 وان فكر روح وام واب فقلت الباقي لها من ثب
 وهذا من روجه نصا عدا فلا تفر من العلوم فاعدا

والثالث للثلاث أو ثلثين من ولد الأم ثلثين
وهكذا في كل فرد واحد وأما لهم فيها ثلثون
وتسعون لثلاث والد كونه فيه كما قد أوضح المستطرد
والسيد شرفه من العدة التي دام لم يمتد الإجماع
والأخت بنت الأب ثم المجدد وولد الأم ثم المجدد
والأب في حققة مع الولد وهكذا الأم بنت الزم الصمد
وهو لها أيضا مع الإخت من أخوة المبت فقست هذين
والجد مثل الأب عند فقده في جزء ما يصبه ويترك
الأب إذا كان هذا أخوة له كونه في القرية وهو أشبه
وحكمه وحكمه شيئا في مثل النصارى في الحلال
وبنت الإخت تأخذ السيد من إذا كانت مع البنت شيئا
وهكذا في الأخت مع الأخ التي بالأب أو بنت أبي
فإن تساوى لثلاث الجدات وكل كهن وأزواج
فالسيد من بينهم بالسوية في القسمة العادلة السيد
كل من أخذت بغير وادب فما حظ من الموارث

مِنْ بَشِ الْفَيْسَةِ بِخَفْزَةٍ لَا تَزِيدُ إِلَّا فِي الْحَقِيقَةِ
 وَتُسْقَطُ الْبُعْدُ بِذَاتِ الْقُرْبِ الْمَذْهَبِ الْأَوَّلِيَّ قَبْلَ حُجَّتِي
 وَقَدْ تَنَافَتْ بِسَمَةِ الْفَرُوضِ بِغَيْرِ تَنْكَالٍ وَلَا عَمُوضٍ
 وَحُجَّتِي أَنْ تَشْرَعَ فِي التَّصْلِبِ بِكُلِّ قَوْلٍ مُوجِدٍ مُصِيبٍ
 فَكُلُّ مَنْ أَحْدَرَ كُلَّ مَالٍ مِنَ الْقَرَابَاتِ أَوْ الْمَوَالِي
 أَوْ كَانَ مَا يَفْضُلُ نَعْدَ الْفَرْصَةِ فَهُوَ أَحَقُّ الْفُضُولَةِ الْمُفَضَّلَةِ
 كَالْأَبِ وَالْجَدِّ وَجَدِّ الْجَدِّ وَالْأَبْنِ عِنْدَ قُرْبِهِ وَالْبَقِيَّةُ
 وَالْأَخِ وَالْإِنِّ الْأَخِ وَالْأَعْمَامِ وَالسَّبَبِ الْمَعْنَوِيِّ الْأَنْوَاعِ
 وَهَكَذَا يُتَوَلَّى جَمِيعًا فَكُنْ لِمَا أَذْكُرُ سَمِيعًا
 وَمَا لِي بِالْبُعْدِ مَعَ الْقُرْبِ إِلَى الْإِنْفِ مِنْ جِطِّ وَلَا تَصِيبِ
 وَالْأَخِ وَالْأَعْمَامِ وَأَبِ الْأَوَّلِيَّ مِنَ الْمُدَى لِي شَطْرُ السَّبَبِ
 وَالْأَبْنِ وَالْأَخِ مَعَ الْأَنْبَاءِ يُفَضِّلُ فِي الْمِيرَاثِ
 وَلَيْسَ فِي النِّسَاءِ طَرْدُ عَصْبَتِهِ إِلَّا إِلَى مَتْنِ بَعَثِ الرَّقَبَةِ
 وَالْأَخَوَاتِ أَنْ يَكُنَّ نِسَاءً فَهِيَ نَعْدَ هُنَّ عَصَبَاتُ
 وَالْجَدُّ مُحَرَّبٌ عَنِ الْمِيرَاثِ بِالْأَبِ فِي الْأَنْوَاعِ الثَّلَاثِ
 وَهَكَذَا يُنْزَلُ بِالْأَبْنِ بِالْأَبِ فَلَا تَبْغِ عَنِ الْحَمِّ الصَّحِيحِ مَقْدَرًا

وَتَسْقُطُ الْجَدَّاتُ مِنْ كُلِّ جَنْبِ الْأُمِّ فَاحْفَظْهُ وَقَسْرُ الشَّيْءِ
 وَتَسْقُطُ الْأَخَوُتُ بِالسَّبَبِ وَالْأَبُ الْأَدْنَى كَمَا رُوِيَ
 أَوْ بَنَى التَّبَيُّنَ حَيْثُ كَانُوا يَتَّبِعُونَ فِيهِ الْجَمْعُ وَالْوَحْدَانُ
 وَتَقْفُلُ الزَّالِمَةُ بِالْإِسْقَاطِ بِالْحَدِّ فَاحْفَظْهُ عَلَى احْتِطَاطٍ
 وَبِالنَّاتِ وَبَنَاتِ الْأَبِ فَلَنْ يَحْفَظَ الْعِلْمُ حَيْثُ لَا يَتَعَيَّنُ
 ثُمَّ بَنَاتُ الْأَبِ تَسْقُطُ مِنْ حَيْثُ بَنَاتُ التَّبَلُّغِ بَنَاتُ
 إِلَّا إِذَا عَصَبَتْهُنَّ الدَّعْوَةُ مِنْ دُونِ الْأَبِ عَلَى مَا ذَكَرُوا
 وَبَعْدَ قَسْرِ الْأَخَوَاتِ الَّتِي يَتَّبِعْنَ بِالتَّزْوِجِ مِنَ الْجِهَاتِ
 إِذَا اخْتَرْنَ مِنْهُنَّ وَافِيًا اسْقُطَ أَوْلَادُ الْأَبِ الْبَوَاكِبِ
 وَأَنْ يَكُنَّ أَخْلَافُ جَاهِلِيَّةٍ عَصَبَتْهُنَّ بِطَبْعٍ وَظَاهِرًا
 وَلَيْسَ بِنِزَالِهَا بِالْمَعْصِيَةِ مِنْ مِثْلِهِ أَوْ قَوْفُهُ فِي النَّسَبِ
 وَأَنْ يَحْدَرَ وَجْهُ أُمِّهِ وَإِنْ نَزَلَ وَاجْتَمَعَ لِلْأُمِّ جَاهِلِيَّةٌ وَالتَّبَلُّغُ
 وَأَخَوُتُ الْأُمِّ وَأَبِ وَاسْتَعْرِفَ أَمَّا أَنْ يَفْرُضَ النَّصَبُ
 فَاجْعَلُهُمْ كُلَّهُمْ كَالْمَرْءِ وَاجْتَمَعَ أَيْمَانُهُمْ بِحُجْرَةٍ فِي الْبَيْتِ
 وَاقْسِمَ عَلَى الْأَخَوَةِ ثَلَاثَ التَّرَكَةِ وَهَذِهِ الْمَسْئَلَةُ الْمَشْهُورَةُ

بِمَعْنَى جَعْلِهِمْ كَالْمَرْءِ وَاجْتَمَعَ أَيْمَانُهُمْ بِحُجْرَةٍ فِي الْبَيْتِ

وَالْآنَ نَبْدَا بِالَّذِي أَرَدْنَا فِي الْجَدِّ وَالْآخِرَةِ إِذْ وَعَدْنَا
 قَالُوا نَحْنُ نَحْمَدُ مَا أَقُولُ الْمَشْمَعَا وَاجْتَمَعَ جَوَاشِي الْعِلْمَاتِ أَحْمَدُ
 وَأَعْلَمُ بِلِسَانِ الْجَدِّ وَأَحْوَالِ أُنْبِيَاكَ عَنْهُمْ عَلَى التَّوَالِي
 مُقَاسِمِ الْآخِرَةِ فِيهِمْ إِذَا لَمْ يَجِدِ الْقِسْمَ عَلَيْهِ بِالْأَدَى
 فَنَارَةٌ تَأْخُذُ تِلْكَ كَامِلًا أَرْكَبًا بِالْقِسْمَةِ عَنْهُ نَارُ لَا
 إِنْ لَمْ يَكُنْ فِيهِمْ ذُووْ شَهَامٍ نَاقِضٌ بِإِضَاحٍ عَنْ شَهَامٍ
 وَنَارَةٌ تَأْخُذُ تِلْكَ الْبَاقِي لَعْدٌ ذُو الْفُضُولِ وَالْأَرْزَاقِ
 هَذَا الْقَامَا أَصْحَابُ الْقِسْمَةِ تَنْقِضُهُ عَنْ ذَاكَ بِالْمُزَاجِمَةِ
 وَنَارَةٌ تَأْخُذُ تِلْكَ الْمَاءَ وَلَيْسَ عَنْهُ نَارُ لَا يَحْكُمُ
 وَتَقُومُ الْإِنَاثُ عِنْدَ الْقِسْمِ مِثْلُ أَخٍ فِي شَهَامِهِ وَالْحُكْمُ
 وَاجْتَمَعَ بَنِي الْآبِ لَدَى الْعِدَّةِ وَأَرْضُ بَنِي لَامٍ مَعَ الْأَخْبَادِ
 وَأَحْكَمُ عَلَى الْآخِرَةِ بَعْدَ الْعِدَّةِ حُكْمُكُمْ فِيهِمْ عِنْدَ فَقْدِ الْجَدِّ
 وَالْأَخْبَاتِ لَا فُضُولَ مَعَ الْجَدِّ لَهَا فِيهَا عِدَا مِثْلُ كَمَلِهَا
 وَلَعْدُ وَجِ وَآمٍ وَهَمَّا مِمَّا فِيهَا فَاغْلَمَ خَيْرُ أُمَّةٍ عَمَلُهَا
 تَعْرِفُ بِإِضَاحٍ بِالْأَكْدَرِيَّةِ دَهْرِيَانِ عَقْلُهَا حَسْبِيَّةِ
 سَاعَةَ الدَّيْنِ مِنْهَا مِثْلُهَا مِثْلُهَا مِثْلُهَا
 سَاعَةَ الدَّيْنِ مِنْهَا مِثْلُهَا مِثْلُهَا مِثْلُهَا

لَنْ يَنْفَعَكَ إِذَا فُتِحَ لَكَ الْبَابُ لَمْ يَكُنْ مِنْ أَهْلِ الْبَيْتِ
 لَمْ يَكُنْ مِنَ الْبَيْتِ لَمْ يَكُنْ مِنَ الْبَيْتِ لَمْ يَكُنْ مِنَ الْبَيْتِ
 فَيُقَضُّ النِّصْفُ لَهَا وَالسُّدُسُ لَهَا حَتَّى تَقُولَ بِالْقَضَى الْمُحْكَمَ
 ثُمَّ يَقُولُ يَا أَيُّهَا الْمَقَامُ كَمَا مَقَامِي نَا حِفْظُ وَالسُّدُسُ نَا مِلَّةُ
 وَإِنْ تَرَدَّدَتْ مَعْرِفَةُ الْحِسَابِ لَمْ يَنْفَعِ فِيهِ إِلَى الصَّوَابِ
 وَتَعْرِفُ الْقِسْمَةَ وَالنَّقْصِيلَ وَتَعْمَلُ الصَّحِيحَ وَالْأَصُولَ
 فَاسْتَخْرِجِ الْأَصُولَ مِنَ الْمَسَائِلِ وَلَا تَكُنْ كَمَنْ حَفِظَهَا بِذَاهِلٍ
 وَهِيَ إِذَا فَضِّلَ فِيهَا الْقَوْلُ ثَلَاثَةٌ يَدْخُلُ فِيهَا الْقَوْلُ
 وَتَعَدُّهَا أَرْبَعَةٌ تَمَامُ الْأَعْوَانِ بِعُرُوفِهَا وَلَا أَنْشَاءُ
 فَالسُّدُسُ مِنْ رَكْعَةِ السَّهَمِ ثَوَا وَالثَّلَاثُ وَالرَّبْعُ سِتُّ عَشْرًا
 وَالسُّدُسُ رَكْعَتَانِ السُّدُسُ فَاصِلُهُ الصِّيَادُ وَفِيهِ الْخَدُّ
 أَرْبَعَةٌ يَتَّبِعُهَا عَشْرُونَ بِعَدِّهَا الْحِسَابُ أَجْمَعُونَ
 هِيَ الثَّلَاثَةُ الْأَصُولُ أَرْبَعٌ كَثُرَتْ فَرَفَعَتْهَا تَحْوِيلُ
 فَيَتَّبِعُ السَّنَةَ عَقْدَ الْعَشْرِ فِي صَوْنٍ مَعْرُوفٍ مُتَّطَرَّةً
 وَتَلْحَقُ النَّبِيَّةُ فِي الْأَنْزِلَةِ الْعَوَّلُ إِذَا بَتَّعَ عَشْرُ
 وَالْعَدَدُ الثَّلَاثُ قَدْ يَحُولُ بِتَمِينِهِ فَأَعْمَلُ بِمَا أَقُولُ
 وَالنِّصْفُ وَالْبَاقِي وَالنِّصْفَانِ أَصْلُهُمَا فِي حُكْمِهِمَا اثْنَانِ

والتلث من ثلثه يكون والدع مرة بعدة مسنوت
والتميز كان فمن ثمانية فله الاصول الثانية
لا يدخل القول عليها فاعلم ثم اسلك التصحيح فيها واقسم
فان تكرر من اصلها تصح فترك فطول الحساب ربح
فاعطى كلاسهم من اجله مكيلا او عابلا من قوله
وان يورى الشهام ليس تنقش على دور الميراث فاتبع فادرس
واطلت طريق الاختصار في العمل بالضرب والوقف بجانبك التل
واردد الى الوقف الذي يوافق واخره في الاصل وانت الحرف
ان كان جليسا واحدا اذا كثر فاحفظ ودع عند الجدار والمرا
وان تدرى الكثر على اجناس فانها في حكم عند الناس
تخصرنا اربعة اقسام بعرفها الماهر في الاحكام
مماثل من بقية مناسبت وتعد موافق مصابح
والدع المبادئ المخالف يليك عن تفصيل العا
خذ من المبادئ واحدا وخذ من المناسبتين الرايد
وخذ جميع العدة المبادئ واخره في الثاني ولا بداهة

وَأَضْرَبَتْ جَمِيعَ الرُّقُوعِ الْمُوَافِقِ وَأَسْبَلَتْ بِذَلِكَ أَنْهَجَ الطُّرُقِ
 وَأَضْرَبَتْهُ فِي الْأَصْلِ التَّيْنِ نَاصِلًا وَأَخْرَجَ مَا أَضْمَرَ وَسَاحَتًا
 وَأَقْسَمَتْ بِالْقَسَمِ إِذَا صَحَّحَ يُعْرِفُهُ الْأَعْيُنُ وَالْقَصِيرُ
 فَهَذِهِ مِنْ الْحِسَابِ حُمْلُ بَاقِي عَلَى مَنَاجِلِ الْعَمَلِ
 مِنْ غَيْرِ نَظَرٍ وَلَا عَيْنٍ نَاقِضٍ بِمَا فِيهِمْ فَهُوَ كَلَامٌ
 وَإِنْ يَمُوتُ آخِرُ قَبْلِ الْعِشْمَةِ فَحَقُّ الشَّهَامِ وَاعْدُونَ قِسْمَةٍ
 وَأَجْعَلْهُ مَسْأَلَةً أُخْرَى لِمَا قَدْ يَنْشُرُ التَّفْصِيلُ فِيهَا قَدْ صَا
 وَأَنْظُرْ فَإِنَّ قَبْلَ الشَّهَامِ مُرَحَّلَةٌ هَدِيَتْ وَفَقَهَا تَمَامُ
 وَأَضْرَبَتْهُ أَوْ جَمِيعَهَا فِي السَّابِقَةِ إِنْ لَمْ يَكُنْ بَيْنَهُمَا مُوَافَقَةٌ
 وَالْأَشْهُمُ الْآخَرَى فِي الشَّهَامِ تَضَرَّبَتْ أَوْ ٢ وَفَقَهَا تَمَامُ
 وَكُلُّ شَيْءٍ فِي جَمِيعِ الثَّانِيَةِ يُضْرَبُ أَوْ ٢ وَفَقَهَا عَلَانِيَةً
 فَهَذِهِ طَرِيقَةُ الْمَنَاسِخَةِ فَإِذَا رَوَى تَهَارُتُهُ فَضَلَّ سَاحَتَهُ
 وَإِنْ يَكُنْ فِي مَنَاجِلِ خَلْقٍ صَحَّحَ يَنْشُرُ الْأَشْيَاءَ
 فَاقْسِمْ عَلَى الْأَقْلِ وَالْبَقِيَّةِ بِحُطْحُوتِ الْعِشْمَةِ الْمُسَيَّرِ
 وَعَكْدِي حُكْمَ زِدَاتِ الْجَمْلِ يَنْشُرُ عَلَى الْيَقِينِ وَالْأَشْيَاءِ

وَإِنَّمَا قَوْمٌ يَهْدِيهِمْ أَوْ غَرَبُوا وَحَادِثٌ عَمَّ الْجَمِيعَ كَالْجُرُودِ
 وَلَمْ يَكُنْ يُعْلَمُ خِلَافُ السَّابِقِ فَلَوْ يُورِثُ نَافِعٌ مِمَّنْ نَافِعُ
 تَعْدَمُ كَأَنَّهُمْ أَجَانِبٌ وَهَكَذَا الرَّأْيُ السَّدِيدُ الصَّائِبُ
 وَقَدْ أُنِيَ الْقَوْلُ عَلَى مَا شِئْنَا مِنْ قِسْمَةِ الْمِيرَاثِ كَيْ يَبِينَتْ
 عَلَى طَرِيقِ التَّوَسُّلِ وَالْإِسْكَانِ الْمُخَصَّصَا بِأَوْحَنِ الْعِبَارِ
 فَالْحَمْدُ لِلَّهِ عَلَى التَّمَيُّزِ مِنْ حَمْدِ كَثِيرَاتِهِمْ 2 دَوَامِ
 وَتَسْلُ الْعَفْوِ عَنِ التَّقْصِيرِ وَخَيْرٌ مَا نَاصِلٌ 2 الْمُصْبِرِ
 وَغَفَرَ مَا كَانَ مِنَ الذُّنُوبِ وَشَرَّ مَا كَانَ مِنَ الْعُيُوبِ
 وَأَنْضَلَ الصَّلَاةَ وَتَسْلِيمَ عَلَى النَّبِيِّ الْمُصْطَفَى الْكَرِيمِ
 مُحَمَّدٍ خَيْرِ الْأَنْبِيَاءِ الْعَاقِبِ وَآلِهِ الْغُرَّةِ ذَوِي الْمَنَاقِبِ
 وَصَحْبِهِ الْأَنْصِلِ الْأَبْرَارِ الصَّفْوَةِ الْأَمَّا ثَلَاثُ الْأَخْيَارِ
 وَحَسْبُنَا اللَّهُ وَنِعْمَ الْكَافِي ذُو الْعِزِّ وَالْقُدْرَةِ وَالْإِطْطَارِ
 تَمَّتْ وَالْحَمْدُ لِلَّهِ الْعَالِمِ وَصَلَوَاتُهُ وَسَلَامُهُ
 عَلَى سَيِّدِنَا مُحَمَّدٍ عَلَيْهِ وَآلِهِ وَصَحْبِهِ الطَّيِّبِ الطَّاهِرِ
 لَيْلَةَ الْجُمُعَةِ الرَّابِعِ لِيَاخِرَ خَلْقٍ مِنْ شَوَّالٍ سَدِّسٍ وَسَعَادٍ
 شَوْبَانَ سَعَادِي حَسَنَاتِي عَفَاكَ عَنْهُ

THE DESIRED OBJECT OF THE INQUIRER
CONCERNING ALL THE RULES OF INHERITANCE:

Composed by the learned *Shaikh*, the *Imám*

Mowaffiko'ddein, father of *Abdalla*,

Mohammed, son of *Ali*, son of *Hosain*,

Al Rahabi, commonly called *Ibno'l*

Motakanna. May God be merciful to him!

In the name of God, the Clement, the Merciful; and from Him we
seek assistance.

- [1] FIRST, we open the discourse
With pronouncing the praise of our Lord most High :
Praise then to GOD for what he hath bestowed,
Praise, by which we remove blindness from the sight !
Next, benediction afterwards and salutation
To the Prophet, whose religion is the ISLA'M,
MOHAMMED, seal of his Lord's messengers,
And his family, after him, and his friends !
And let us pray GOD for his aid to us
In what we have proposed to explain
From the system of the Imám, ZAID ALFARADHI*,
(Since this is among the noblest of purposes)
By learning ; for learning is the most deserving of efforts
In it, and the worthiest vocation of the pious ;
And this *branch of* knowledge peculiarly belongs to what
Has been openly declared among all the learned ;

* *Faradhí*, a man skilled in the *faráyidh*, or *sacred ordinances* contained in the Alcoran.

And ZAID has unquestionably a just title
 To what the lord of the mission conferred on him,
 By pronouncing his excellence, clearly saying,
 " ZAID will teach you the law : " O glorious encomium !
 He, therefore, best deserves to be followed by the student,
 Especially since SHAFIEI takes him for a guide.
 This then is his doctrine epitomised
 Free from a particle of ambiguity.
 The causes of inheritance among men are three ;
 (The possessor of any one has the advantage of succession)
 And they are wedlock, collateral relation, and descent :
There is not besides them a single cause of inheritance.

- [2] And any one of three incapacities
 Excludes a person from the succession ;
 Servitude, and homicide, and a difference of faith :
 Understand then ; since doubt is not like certainty.
 And those, who inherit among males, are ten ;
 Their names are known, and every where mentioned :
 The son, and the son's son, however they descend,
 And the father, and his father, in the ascending line ;
 And the brother, on whichever side he stands,
 Since GOD caused the KORAN to descend in his favour ;
 And the son of a brother related by the same father,
 (Hear now the discourse containing no falsehood)
 And the paternal uncle, and such uncle's son,
 (Be thankful to him, who explains concisely and clearly)
 And the husband, and the emancipator nearly connected ;
 And all the males, *who inherit*, are these.

And all the inheriting females are seven,
 (To no woman, but them, does the law give that title)
 The daughter, and the son's daughter, and the tender mother,
 And the grandmother, and the wife, and the emancipatress,
 And the sister, on whichever side she stands :
 And this their number *thus* appears.
 And know, that inheritance is of two sorts, which *are*
 The SHARE, and the HEIRSHIP* of what is distributable.
 Now the shares, by the declaration of the book, are fix :
 (Besides them *is* no share in the inheritance)
 A moiety, and a fourth ; next, half a fourth,
 And a third, and a sixth, as the law declares,
 And two thirds ; and these *are* the whole.
 Remember then ; for " Every one, who remembers, *is* an
 IMAM †."

- [3] A moiety then *is* the share of five persons,
 The husband, and the female child,
 And the daughter of a son, on failure of daughters,
 And the *whole* sister, by the opinion of every MUFTI,
 And, after her, the sister, who has the same father ;
This when they stand alone without any HEIR.
 And a fourth *is* the share of the husband, if there be with him
 Any children of the wife, who deprive him *of more* ;
 And this *is* for every wife, or more *than one*
 On failure of children, as it is ordained.
 And the eighth *is* for the wife, or the wives,
 Together with sons or with daughters ‡,

* Pronounced in India, *ferz* and *asba*. See the last words of the report by the *Mahomedan* doctors in the *Patna* cause.

† A saying, I believe, of *Mahomed* ; he meant *a rememberer of his oral precepts*. Hence the name of *Hafidh*, or *Hafiz*, was assumed by many illustrious persons, and, among them, by the celebrated poet.

‡ See the answer of *Mohammed Kásim* to the *thirteenth* question proposed to him in the *Patna* cause.

Or with children of sons : learn then,
 And remain firm in venerating study, and prosper.
 And two thirds are for the daughters all together,
 When there are more than one ; (hear attentively)
 And the same *portion is* for the daughters of a son :
 (Comprehend my discourse with clear discernment)
 This also *is* for two sisters, and for what exceeds *that number* ;
 The ingenuous and the pious have thus decided :
 This, whether they be by the father and the mother,
 Or by the father *only*. (Act by this *rule* ; thou wilt be right)
 And the third *is* the mother's share, when *there is* no child,
 Nor any assemblage or number of brethren,
 As two brothers, or two sisters, or three ;
 The rule in this *case* regards males as well as females.
 And, if there be a husband, and a mother, and a father,
 A third of what remains is allotted to her ;
 And so with a wife : (advance then,
 And be not seated apart from the sciences.)

- [4] And a third *is* for two males or two females
 Of the mother's children, without deceit ;
 And so, if there be more, and they seek *their allotment*,
 There is no provision for them in what exceeds that share,
 And females and males are held equal
 In this *distribution*, as the written law declares.
 And a sixth *is* the share of seven in number,
 The father, and the mother, then the son's daughter, and the
 grandfather,

And the sister, daughter of the father, next the grandmother,
 And the mother's child: the number is complete.
 And the father has a right to it with the children,
 And so the mother, by the revelation of the Eternal:
 And the same is for her with two
 Of the dead man's brothers: give those two a just allotment,
 And the grandfather *is* like the father, on his death,
 In the distribution of what accrues to him and relieves him,
 Except when there are brothers *living*,
 Since they are preferable to him in proximity*;
 And their due and his due shall be introduced
 With a full explanation in the *different* cases.
 And the son's daughter takes a sixth, when
 She is with a daughter, alike in descent,
 And thus a sister with a sister, who
 Is related, O my brother, by the same father.
 And, if the relation of the grandmothers be equal,
 Both of them are called to the succession;
 And a sixth *is divided* between them equally
 By the just *and* the legal *mode of* partition.
 And every female, who claims through one not inheriting,
 Has herself no portion of the inheritance.

- [5] And the distant kinswoman is excluded by the near
 By the better opinions: (say now to me, "Enough.")
 And *here* ends the distribution of the SHARES,
 Without perplexity or intricacy:

* The margin has *minbo* for *wabú*. From this verse it appears, that the degrees of consanguinity are computed by the *Mahomedans* in the same manner as by our common lawyers.

And *it is* just, that we propound the law of HEIRSHIP
 With every sentence concise *and* exact.
 Now every one, who appropriates all the estate,
 Among the near descendants or relations,
 Or who takes what remains after the portions,
 He is distinguished by the title of HEIR*,
 As the father, and the grandfather, and his father,
 And the son, in a near and a remote degree,
 And the brother, and the brother's son, and the uncles,
 And the master, who generously manumitted *his slave*.
 And thus their sons, all of them :
 (Be attentive then to what I pronounce).
 And *there is not* to the distant, with the near, kinsman
 Any share or portion in the inheritance.
 And the brother and the uncle by mother and father
 Are preferred to those descended by the half blood.
 And the son and the brother with females
 Have the heirship over them in the estate :
 And there is not among women any heiress
 Except her, who kindly freed the *enslaved* neck.
 And the sisters, if there be daughters,
 Take the residue after their portions.
 And the grandfather is precluded from inheriting
 By the father in *all* his three cases ;
 And thus the grandson by the son : (do not then
 Turn aside, in deviation from the clear rules)

* See *A Narrative of the Proceedings in the Patna Cause*, p. 11. Note b. The Arabick verb *ds'saba* primarily signifies *to collect and bind together the branches of a tree* : hence the secondary sense, *to constitute the heir and head of a family*.

[6] And the grandmothers on each side are excluded
 By the mother: (remember this *rule*, and decide conformably)
 And brothers are excluded by sons
 And by the nearest progenitor, as we are taught,
 Or by sons' sons, when there are *any* ;
 A number and one are in this respect alike.
 And the mother's son remains in exclusion
 By the grandfather (remember this with care)
 And by the daughters, and the son's daughters :
 (Be very assiduous in committing knowledge to memory)
 Besides, the son's daughters are excluded, when
 The daughters take two thirds, O young man,
 Except when a male has the heirship over them
 Of the son's children, by what they assert :
 And, after them, the sisters, who
 Descend in proximity from *both* sides,
 When they take their complete portions,
 Exclude the weeping daughters of the *dead* father ;
 And, if they have a brother present,
 He has the heirship over them, in private and publick,
 And the brother's son is not the heir over
 Whoever is equal to, or above, him in descent.
 And, if thou find a husband and a mother inheriting,
 And brothers by the mother, they take *each* a third ;
 And so *if there be* brothers by the mother and the father,
 And the whole estate is comprised in the allotment of shares,

Place them all to *the side of* the mother,
 And confider their father as a rock in the fea,
 And divide among the brethren a third of the eftate left,
 And this *is* the cafe of *mushtaraca*, or parcenary.

- [7] And now we will enter upon what we defire
 Concerning the grandfather and the brothers, as we promifed.
 Incline then thine ear to what I fhall fay,
 And collect at once the whole purport of my words;
 And know, that the grandfather has *different* cafes;
 I will inform thee of them fucceffively:
 And he has a fhare with the brothers in them, when
 The divifion redounds not to any lofs upon him.
 And fometimes he takes an entire third,
 If there be in the diftribution any defcendants from him,
 And there be not among them any entitled to fhares,
 (Be content with my explanation without queftions)
 And fometimes he takes a third of the remainder
 After thofe, who have portions and provifions;
 This, when the dividend is become
 Too diminifhed for the other *fhare* by the prefs of *claimants*.
 And fometimes he takes a fixth of the property,
 And there is no defcendant from him in *that* cafe;
 And he, with females in the divifion, is
 Like the brother in his fhare and his right.
 And reckon the father's children in the number,
 (And leave the mother's children with the grandfathers)

And, after that number, give to the brethren
 Thy just allotment among them on failure of the grandfather.
 And the sister has no share with the grandfather
 In what exceeds the case already concluded ;
 The consort and the mother, and these two *are* all of them,
 (Know then, for the best of the sect is he who knows best)
 Are called, O friend, the *acdariyyah** ;
 And they deserve to be remembered by thee.

- [8] Half then is given to her, and a sixth to him,
 Until there is a remainder after the entire shares,
 Then they return to the distribution
 As before-mentioned : (recollect it, and thank the author)
 And, if thou desire a knowledge of computation,
 Thou wilt by its means attain the right proceeding :
 And thou wilt understand divisions and analysis,
 And wilt be acquainted with integers and fractions ;
 Extract then the roots in *solving* problems †,
 And be not remiss in committing them to memory ;
 Now they, when the discourse about them is precise,
 Are three, to which a remainder belongs,
 And, after them, four complete *divisors*,
 To which no remainder belongs, nor any fraction ‡.
 Now the sixth, thou wilt see, is from six portions,
 And the third and the fourth from twelve ;
 And if to an eighth a sixth be added,
 The *new* root, concerning which the calculation is just,

* The *Arabian* lexicographers give this name to the *husband* or *wife*, the *mother*, the *grandfather*, and the *whole* sister ; possibly, because the rules of succession are a little *disturbed* in favour of them.

† By *ás'l*, or *root*, he must mean the *denominator* of a fraction.

‡ He, probably, considers the whole estate as *twelve*, which has *four* divisors, besides unit.

Becomes four, which twenty follow,
 As arithmeticians universally know*.
 And these three roots,
 If the shares be many, leave a remainder.
 And let fix come to the connexion of ten
 In the known table commonly delineated†,
 And let that follow, which succeeds it in the series,
 In the excess, by distinct progressions, to seventeen;
 And the third number leaves a remainder
 Of its eighth part: (proceed then, as I direct)
 And half and what remains, or the two halves,
 Their root, in the rule concerning them, is two.

- [9] And the third comes *obviously* from three;
 And the fourth is formed from four;
 And the eighth, if it be *required*, is from eight;
 And these are the second roots,
 To which no remainder belongs: know this;
 Then pursue the method of verifying it, and distribute:
 And, if thou hast verified the root,
 The end of lengthened computation is clear gain.
 Give then to each person his share, from his root,
 Complete, or broken from its remainder.
 And, if thou see that the shares cannot be distributed
 To the partakers of the inheritance, follow what is prescribed,
 And seek the way of compendiousness in the work
 By multiplication and proportion: this will remove error from
 thee,

* In our notation (which the *Asiatics*, if they are wise, will adopt), $\frac{1}{8} + \frac{1}{8} = \frac{7}{4}$.

† This passage I do not understand, not knowing the *table* to which it refers. The *sexagenary table*, which *Wallis* exhibits in the seventh chapter of his *Algebra*, is commonly used in *Asia* for multiplication and division. See *CHARDIN*, vol. III. p. 155.

And restore to the whole quantity what agrees with it,
 And multiply it by the root, and be thou vigilant ;
 Whether there be one denomination or more,
 Remember well, and dismiss from thee doubt and difficulty :
 And, if thou see multiplicity in the kinds,
 Then they, by the rule among men,
 Are numerically ranged in four terms,
 The skilful *accountant* will know them by the rules ;
 The similar *term*, after it the proportional,
 And, after that, the concordant accompanying,
 And the fourth *is* the discordant separated ;
 (The intelligent man will inform thee of their distinctions)
 Take then from the similars one,
 And take from the proportionals the rest,
 And take the entire number of discordants,
 And multiply them by the second *term* ; and be not deceived.

- [10] And, mix the whole quantity with the concordant,
 And pursue by it the plainest of ways ;
 And multiply it into the root, which thou hast investigated,
 And compute what is the sum, and what it amounts to ;
 And divide it ; and, if the division be just,
 The illiterate and the eloquent man will equally know it * :
 And this is the whole of the computation,
 (The work thus proceeds in similar cases)
 Without prolixity or digression ;
 Be satisfied then with what it contains ; for it is sufficient †.

* The preceding verses contain an awkward rule of *practice* ; but it hence appears, that *Chardin* was mistaken, when he asserted, that neither the *Indians* nor *Persians* of his time were at all acquainted with the common *practical rules* : see his chapter on the *Persian Arithmetick*.

† It can only be of use, as an artificial memory, to those who already know the rules, but is insufficient for the teaching of them. These two or three pages are very enigmatical ; but I should not despair of explaining them, if I had leisure to read a few arithmetical books of the *Arabs* or *Persians*.

And if one person die before the distribution,
 Make the shares just, and know his *proper* division;
 And state for him a fresh question, as it
 Has been distinctly explained, in what precedes:
 And consider; and, if the shares agree,
 Take them; thou art right; the quantity is complete;
 And mix it, or all of them, into the preceding,
 If there be not an agreement between them,
 And the new shares into the *former* shares
 Are blended, or into the entire quantity;
 And every share into the aggregate of the second
 Is mixed, or into the whole quantity, manifestly:
 And this is the method of *monáfakhab**;
 Mount then by it the lofty degrees of excellence.
 And, if there be among the claimants of the estate
 A real hermaphrodite, removing *all* doubts,
 Distribute to the less *evident* and to the certain;
 Thou wilt allot with justice the clear portion;
 And this is the rule of pregnant women,
 Which is founded on the certain, and the less *evident*.

- [11] And, if many kinsmen die by ruin or drowning,
 Or a calamity overwhelming all, as fire,
 And the case of the survivor be not known,
 And one deceased cannot be heir to another deceased,
 Reckon them *all*, as if they were strangers;
 And this is the sound and true determination.

* The grammarians, translated by *Golius*, thus explain the word *tenáfokb* or *monáfakhab*: "Mors
 " et successio continua hæredum, quæ fit integrâ manente et indivisâ hæreditate;" but the last words
 convey no adequate idea of the thing.

And now the discourse has come to what we desired
 Concerning the distribution of estates, so that it is made clear,
 By way of short hint and allusion,
 Explained in an abbreviation of the sense.
 Praise then to GOD in perfection,
 Praise, abundant, complete in eternity ;
 And let us ask forgiveness for our defects,
 And the best of what we hope in the place aspired to,
 And pardon for what is passed of our sins,
 And a covering for what is passed of our faults ;
 And the fairest of salutations and benisons
 On the prophet, the pure, the illustrious,
 MOHAMMED, the best of created beings, the last of prophets,
 And on his family, bright with glorious qualities,
 And his companions, the excellent, the noble,
 The spotless, the exalted, the beneficent !
 And our sufficient help is GOD ! O all-sufficient !
 Endued with greatness, and with power, and with clemency !

The work is ended. Praise be to GOD,
 The ruler of worlds ! and his blessing
 And peace on our lord
 MOHAMMED, the Unlettered Prophet,
 And on his family and his companions,
 The excellent, the unblemished !
 On Friday night, one of the four nights
 at the close of *Shewāl* in the year

seven hundred and twelve *

The Transcriber, surnamed

FAKHRO'L SA'BIKA'NI

(or, Excelling his Predecessors)

confides in GOD Most High :

May GOD forgive his sins !

* Y. C. 1312.

AL SIRÁJIYYAH:

OR,

THE MOHAMMEDAN LAW OF INHERITANCE;

WITH

A COMMENTARY,

BY

SIR WILLIAM JONES.

VOL. III.

3 T

AL-SIB'ILYYAH II
PREFACE

THE two Malabar authors, whom I now introduce to my countrymen, are *Shari' al-Din* and *Shari' al-Din*, who were born at Yaman in Arabia near the mouth of the Oxus, and is said to have died, at the age of seventy-six years, in the city of Sivas; their compositions have equal authority in all the Mohammedan Courts, which follow the system of *Abu Hanifa*, with those of *Littreron* and *Coke* in the courts of *Windsor*; and there is indeed a wonderful analogy between the words of the old *Shari' al-Din* and *Shari' al-Din*, and between those of their latest commentators; with this difference in favour of our own country, that *Littreron* is always too clear to need a gloss, and with this difference in favour of the *Shari' al-Din*, that the old *Shari' al-Din* was to explain and illustrate his text, while our own commentators display of his own reasoning; but when it is admitted, that a degree of extreme poverty has often made the *Shari' al-Din* obscure, the reader should understand, that every author must appear to great disadvantage in a literal translation, especially when his own style differs totally from that of his translator, when his native of his must be rendered by new words, which he knows can never exist, and when the system, which he wishes to be known, has no resemblance to any other, that the worst ever known in the *Shari' al-Din* (for that is the popular title of the *Shari' al-Din*)

THE

PREFACE.

THE two *Muselman* authors, whom I now introduce to my countrymen in *India*, are *Shaikh* SIRA'JU'DDI'N, a native of *Sejávend*, and *Sayyad* SHARI'F, who was born at *Jurján* in *Khwárezm* near the mouth of the *Oxus*, and is said to have died, at the age of seventy-six years, in the city of *Shiráz*: their compositions have equal authority in all the *Mohammedan* courts, which follow the system of ABU' HANI'FAH, with those of LITTLETON and COKE in the courts at *Westminster*; and there is, indeed, a wonderful analogy between the works of the old *Arabian* and *English* lawyers, and between those of their several commentators; with this difference in favour of our own country, that LITTLETON is always too clear to need a gloss, and with this difference in favour of the *Arabs*, that the sole object of SHARI'F was to explain and illustrate his text, without an ostentatious display of his own erudition; but, when it is admitted, that a desire of extreme brevity has often made the *Sirájíyyah* obscure, the reader should in candour allow, that every author must appear to great disadvantage in a literal translation, especially when his own idiom differs totally from that of his translator, when his terms of art must be rendered by new words, which use alone can make easy, and when the system, which he unfolds to his countrymen, has no resemblance to any other, that the world ever knew. In the *Sharífíyyah* (for that is the popular title of the *Arabian* comment)

ment) we find little or no obscurity ; and, if there be a fault in the book, it is a scrupulous minuteness of explanation, and a needless anxiety to remove every little cloud, which the reader himself might disperse by the slightest exertion of his intellect. Both works were translated into *Persian* by the order of Mr. HASTINGS ; and the translation, which bears the name of *Maulavi* MUHAMMED KA'SIM, must appear excellent, and would be really useful, to such as had not access to the *Arabick* originals ; but the text and comment are blended without any discrimination, and both are so intermixed with the notes of the translator himself, that it is often impossible to separate what is fixed law from what is merely his own opinion : he has also erred (though it be certainly a pardonable error) on the side of clearness, and has made his work so tediously perspicuous, that it fills, inclusively of a turgid and flowery dedication, about six hundred pages, and a faithful version of it in *English* would occupy a very large volume.

If the pains, which have been taken to render my own work as complete as possible, be measured by the size of it, they must be thought very inconsiderable ; but in truth no greater pains could have been taken with any work ; and it would have been a far easier task to have dictated or written a verbal translation of the two comments on my text, than to have made a careful selection of all that is important in them ; for which purpose I perused each of them three times with the utmost attention, and have condensed in little more than fifty short pages the substance of them both, without any superfluous passage, that I should wish to be retrenched, and with as much perspicuity as I was able to give, in so short a compass, to a system in some parts rather abstruse : lest men of business, for whom the book is intended, should be alarmed at first sight by the magnitude of it, I have omitted all the minute criticism, various readings,

readings, and curious *Arabian* literature; most of the anecdotes concerning old lawyers, and all their subtil controversies with the arguments on both sides; together with the demonstrations of arithmetical rules and the very long processes, after the prolix method of the *Arabs*, in words instead of figures. Practical utility being my ultimate object in this work, I had nothing to do with literary curiosities, how agreeable soever they might have been in their proper places; but, in order to attain that object by a full explanation of every thing useful in my text, I was under a necessity of retaining the *Arabian* phraseology both in law and arithmetick, and must request the *English* reader to dismiss from his mind, while he studies the *Sirâjiyyah*, those appropriated senses, in which many of our words, as *heir*, *inheritance*, *root*, and the like, are used in our own systems. One *Arabick* word I was at a loss to translate precisely in our language without circumlocution: the chief problem, in the distribution of estates among *Muselman* heirs, is *to find the least number, by which an estate must be divided, so that all the shares and the residue may be legally distributed without a fraction*: this they call *integration*; but, if I could have hazarded such a word in *English*, the frequent repetition of it would have been extremely harsh; and I have generally called it *arrangement* or *verification*, which are popular senses of the *Arabick* verbal noun; but the number sought, or, to use the *Arabian* expression, *the integrant of the case*, I have usually named the *divisor* of the estate.

It will be seen in the *Sirâjiyyah*, that the system of Zaid, though in part exploded by Abu Hani'fah, had very powerful supporters, and its author is always mentioned in terms of respect: it is the system, which I published at *London* above ten years ago; and I am not surpris'd, that, without a native assistant or even a marginal gloss, I could not then interpret the many technical words, which no dictionary

tionary explains, except in their popular senses; but, though my literal version of the tract by ALMUTAKANNA, seems for pages together like a string of enigmas, yet the following work makes every sentence in it perfectly clear; and the original, which was engraved from a very old manuscript, appears to be a lively and elegant epitome of the law of inheritance according to ZAID, but manifestly designed to assist the memory of young students, who were to get it by heart, when they had learned the rules from some longer treatise, or from the mouths of their preceptors. This may be no improper place to inform the reader, that, although ABU HANÍFAH be the acknowledged head of the prevailing sect, and has given his name to it, yet so great veneration is shown to ABU YU'SUF and the lawyer MUHAMMED, that, when they *both* dissent from their master, the *Muselman* judge is at liberty to adopt either of the two decisions, which may seem to him the more consonant to reason and founded on the better authority.

I am strongly disposed to believe, that no possible question could occur on the *Mohammedan* law of succession, which might not be rapidly and correctly answered by the help of this work; but it would be easy to confirm or invalidate my opinion by the following method. Let one capital letter, or more, if necessary, represent each of the sharers, residuaries, and distant heirs; and let those letters be the initials of the several words, in aid of the memory, but so chosen (as without difficulty they may be) that all may be different; let them be placed in alphabetical order, and connected by the sign of addition; let an enumeration be then made, by the known rule, of all the possible cases, in which they can occur, two and two, three and three, and so forth; let them accordingly be arranged in tables from the lowest number to the highest; and let the share or allotment of each be set above the letter, in the place of an exponent. If the question then were proposed, in what manner the property of HINDA must be distributed
among

among her *daughter*, her *sister by the same father only*, and the *daughter of her son*, the table of the *third* class would exhibit this formula $D \frac{1}{2} + DF \frac{2}{3} + DS \frac{1}{3}$; or, if AMRU had left his *wife, two daughters*, and *both his parents*, the formula in the *fourth* table would be $2 D \frac{1}{17} + F \frac{4}{17} + M \frac{4}{17} + W \frac{3}{17}$; where the denominator of the index would be the *integrant*, as the *Arabs* call it, *of the case*, and the numerator would point out the several allotments: thus might we construct a set of tables, mathematically accurate, in which the legal distribution, in every possible case, might be seen in a moment without thought and even without learning; and such a blind facility, though not very consistent with the dignity of science, would certainly be convenient in practice. We might also arrange the whole in a *synthetical* method (of all the most luminous and satisfactory) by beginning with the *sentences* of the *Koràn*, as with indubitable axioms, followed by the genuine oral *maxims* of MUHAMMED; by subjoining the *points*, on which all the learned have at length agreed, and by concluding with *cases* deduced from those three sources of juridical knowledge, to which there should be constant references by numbers in the manner of geometers: this method I propose to adopt in the Digest, from which I have separated the *Sirâjiyyah*, because it seemed worthy of being exhibited entire, and may be considered as Institutes of *Arabian* Law on the important title, mentioned by the *British* legislature, of *inheritance and succession to lands, rents, and goods*.

Unless I am greatly deceived, the work, now presented to the public, decides the question, which has been started, *whether, by the Mogul constitution, the sovereign be not the sole proprietor of all the land in his empire, which he or his predecessors have not granted to a subject and his heirs*; for nothing can be more certain, than that *land, rents, and goods* are, in the language of all *Mohammedan* lawyers, *property alike alienable and inheritable*; and so far is the sovereign from having any right

right of *property* in the goods or lands of his people, that even escheats are never appropriated to his use, but fall into a fund for the relief of the poor. SHARIF expressly mentions *fields* and *houses* as inheritable and alienable property : he says, that a *house*, on which there is a lien, shall not be sold to defray even funeral expenses ; that, if a man dig a well *in his own field*, and another man perish by falling into it, he incurs no guilt ; but, if he had trespassed on *the field of another man*, and had been the *occasion* of death, he must pay the price of blood ; that *buildings* and *trees* pass by a sale of *land*, though not conversely ; and he always expresses what we call *property* by an emphatical word implying *dominion*. Such *dominion*, says he, may be acquired by the act of *parties*, as in the case of *contracts*, or, by the act of *law*, as in the case of *descents* ; and, having observed, that *freedom is the civil existence and life of a man*, but *slavery, his death and annihilation*, he adds, *because freedom establishes his right of property, which chiefly distinguishes man from other animals and from things inanimate* ; so that he would have considered *subjects without property* (which, as he says in another place, *comprises every thing that a man may sell, or give, or leave for his heirs*) as *mere slaves without civil life* : yet SHARIF was beloved and rewarded by the very conqueror, from whom the imperial house of *Dehli* boasted of their descent. The *Koràn* allots to certain kindred of the deceased specific shares of *what he left*, without a syllable in the book, that intimates a shade of distinction between realty and personalty ; there is therefore no such distinction, for interpreters must make none, where the law has not distinguished : as to MUHAMMED, he says in positive words, *that if a man leave either property, or rights, they go to his heirs* ; and SHARIF adds, *that an heir succeeds to his ancestor's estate with an absolute right of ownership, right of possession, and power of alienation*. Now I am fully persuaded, that no *Muselman* prince, in any age or country, would have harboured a thought of controverting these authorities. Had the doctrine lately broached been suggested to the ferocious, but
politick

politick and religious, OMAR, he would in his best mood have asked his counsellor sternly, whether he imagined himself wiser than God and his Prophet, and, in one of his passionate fallies, would have spurned him as a blasphemmer from his presence, had he been even his dearest friend or his ablest general: the placid and benevolent ALI would have given a harsh rebuke to such an adviser; and AURANGZI'B himself, the bloodiest of assassins and the most avaricious of men, would not have adopted and proclaimed such an opinion, whatever his courtiers and slaves might have said, in their zeal to aggrandize their master, to a foreign physician and philosopher, who too hastily believed them, and ascribed to such a system all the desolation, of which he had been a witness. Conquest could have made no difference; for, either the law of the conquering nation was established in *India*, or that of the conquered was suffered to remain: if the first, the *Koràn* and the *dicta* of MUHAMMED were fountains, too sacred to be violated, both of publick and private law; if the second, there is an end of the debate; for the old *Hindus* most assuredly were absolute proprietors of their land, though they called their sovereigns Lords of the Earth; as they gave the title of Gods on Earth to their *Bráhmens*, whom they punished, nevertheless, for *theft* with all due severity. Should it be urged, that, although an *Indian* prince may have no right, in his *executive* capacity, to the land of his subjects, yet, as the sole *legislative* power, he is above control; I answer firmly, that *Indian* princes never had, nor pretended to have, an unlimited legislative authority, but were always under the control of laws believed to be divine, with which they never claimed any power of dispensing.

I am happy in an opportunity of advancing these arguments against a doctrine, which I think unjust, unfounded, and big with ruin; for, in the course of nine years, I have seen enough of these provinces and of their inhabitants, to be convinced, that, if we hope to make our

government a blessing to them and a durable benefit to ourselves, we must realize our hope, not by wringing for the present the largest possible revenue from our *Asiatick* subjects, but by taking no more of their wealth than the publick exigencies, and their own security, may actually require; not by diminishing the *interest*, which landlords must naturally take in *their own soil*, but by augmenting it to the utmost, and giving them assurance, that it will descend to their heirs: when their laws of property, which they literally hold *sacred*, shall in practice be secured to them; when the land-tax shall be so moderate, that they cannot have a colourable pretence to rack their tenants, and when they shall have a well grounded confidence, that the proportion of it will never be raised, except for a time on some great emergence, which may endanger all they possess; when either the performance of every legal contract shall be enforced, or a certain and adequate compensation be given for the breach of it; when no wrong shall remain unredressed, and when redress shall be obtained at little expense, and with all the speed, that may be consistent with necessary deliberation; then will the population and resources of *Bengal* and *Bahar* continually increase, and our nation will have the glory of conferring happiness on considerably more than *twenty-four* millions (which is at least the present number) of their native inhabitants, whose cheerful industry will enrich their benefactors, and whose firm attachment will secure the permanence of our dominion.

AL SIRÁJIYYAH.

THE
INTRODUCTION.

IN THE NAME OF THE MOST MERCIFUL GOD !

PRAISE *be* to GOD, the Lord of *all* worlds ; the praise of those who give *Him* thanks ! And *His* blessing on the best of created beings, MUHAMMED, and his excellent family ! The Prophet of GOD (on whom be His blessing and peace !) said : “ Learn the laws of inheritance, and teach them to the people ; for they *are* one half of useful knowledge.” Our learned in the law (to whom GOD be merciful !) say : “ There belong to the property of a person deceased four successive duties *to be performed by the magistrate* : first, his funeral ceremony and burial without superfluity of expense, yet without deficiency ; next, the discharge of his just debts from the whole of his remaining effects ; then, the payment of his legacies out of a third of what remains after his debts *are* paid ; and, lastly, the distribution of the residue among his successors, according to the Divine Book, to the Traditions, and to the Assent of the Learned.” They begin with the persons entitled to shares, who are such as have each a specifick share allotted to them in the book of Almighty GOD ; then they proceed to the residuary heirs by relation, and they are all such as take what remains of the inheritance, after those who are entitled to shares ; and, if there be only residuaries, they take the whole property : next to residuaries for special cause, as the master of an enfranchised slave and his

his *male* residuary heirs; then they return to those entitled to shares according to their respective rights of consanguinity; then to the more distant kindred; then to the successor by contract; then to him who was acknowledged as a kinsman through another, so as not to prove his consanguinity, provided the deceased persisted in that acknowledgment even till he died; then to the person, to whom the whole property was left by will; and lastly to the publick treasury.

On Impediments to Succession.

IMPEDIMENTS to succession *are* four; 1, servitude, whether it be perfect or imperfect; 2, homicide, whether punishable by retaliation, or expiable; 3, difference of religion; and, 4, difference of country, either actual, as between an alien enemy and an alien tributary; or qualified, as between a fugitive and a tributary, or between two fugitive enemies from two different states: now a state differs from another by having different forces and sovereigns, there being no community of protection between them.

On the Doctrine of Shares, and the Persons entitled to them.

THE *furud'*, or shares, appointed in the book of Almighty GOD, are six: a moiety, a quarter, an eighth, two thirds, one third, and a sixth, *some formed* by doubling, and *some* by halving. Now those entitled to these shares are twelve persons; four males, who are the father and the true grandfather or other male ancestor, how high soever *in the paternal line*, the brother by the same mother, and the husband; and
eight

eight females, who are the wife, and the daughter, and the son's daughter, or other female descendant how low soever, the sister by one father and mother, the sister by the father's side, and the sister by the mother's side, the mother, and the true grandmother, that is, she who is related to the deceased without the intervention of a false grandfather. (A false male ancestor is, where a female ancestor intervenes in the line of ascent.) The father takes in three cases; 1, an absolute share, which is a sixth, and that with the son, or son's son, how low soever; 2, a legal share, and a residuary portion also; and that with a daughter, or a son's daughter, how low soever in the degree of descent; 3, he has a simple residuary title, on failure of children and son's children, or other low descendants. The true grandfather has the same interest with the father, except in four cases, which we will mention presently, if it please GOD; but the grandfather is excluded by the father, *if he be living*; since the father is the mean of consanguinity between the grandfather and the deceased. The mother's children also take in three cases: a sixth is the share of one only; a third, of two, or of more: males and females have an equal division and right; but the mother's children are excluded by children of the deceased and by son's children, how low soever, as well as by the father and the grandfather; as the learned agree. The husband takes in two cases; half, on failure of children, and son's children, and a fourth, with children or son's children, how low soever they descend.

On Women.

WIVES take in two cases; a fourth goes to one or more on failure of children, and son's children, how low soever; and an eighth with children or son's children, in any degree of descent. Daughters begotten
by

by the deceased take in three cases: half goes to one only, and two thirds to two or more; and, if there be a son, the male has the share of two females, and he makes them residuaries. The son's daughters are like the daughters begotten by the deceased; and they may be in six cases: half goes to one only, and two thirds to two or more, on failure of daughters begotten by the deceased; with a single daughter of the deceased, they have a sixth, completing (*with the daughter's half*), two thirds; but, with two daughters of the deceased, they have no share of the inheritance, unless there be, in an equal degree with, or in a lower degree than, them, a boy, who makes them residuaries. As to the remainder between them, the male has the portion of two females; and all of the son's daughters are excluded by the son himself.

If a man leave three son's daughters, some of them in lower degrees than others, and three daughters of the son of another son, some of them in lower degrees than others, and three daughters of the son's son of another son, some of them in lower degrees than others, as in the following table, this is called the case of *tashbib*.

FIRST SET.

```

      Son,
      |
    Son, Daughter,
      |
    Son, Daughter,
      |
    Son, Daughter,
  
```

SECOND SET.

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      Son,
      |
      Son,
      |
    Son, Daughter,
      |
    Son, Daughter,
      |
    Son, Daughter,
  
```

THIRD SET.

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      Son,
      |
      Son,
      |
      Son,
      |
    Son, Daughter,
      |
    Son, Daughter,
      |
    Son, Daughter.
  
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Here

Here the eldest of the first line has none equal in degree with her ; the middle one of the first line is equalled in degree by the eldest of the second ; and the youngest of the first line is equalled by the middle one of the second, and by the eldest of the third line ; the youngest of the second line is equalled by the middle one of the third line, and the youngest of the third set has no equal in degree.—When thou hast comprehended this, then we say : the eldest of the first line has a moiety ; the middle one of the first line has a sixth together with her equal in degree to make up two thirds ; and those in lower degrees never take any thing, unless there be a son with them, who makes them residuaries, both her who is equal to him in degree, and her who is above him ; but who is not entitled to a share : those below him are excluded.

Sisters by the same father and mother may be in five cases : half goes to one alone ; two thirds to two or more ; and, if there be brothers by the same father and mother, the male has the portion of two females ; and the females become residuaries through him by reason of their equality in the degree of relation to the deceased ; and they take the residue, when they are with daughters or with son's daughters, by the saying of Him, on whom be blessing and peace ! “ Make sisters, “ with daughters, residuaries.”

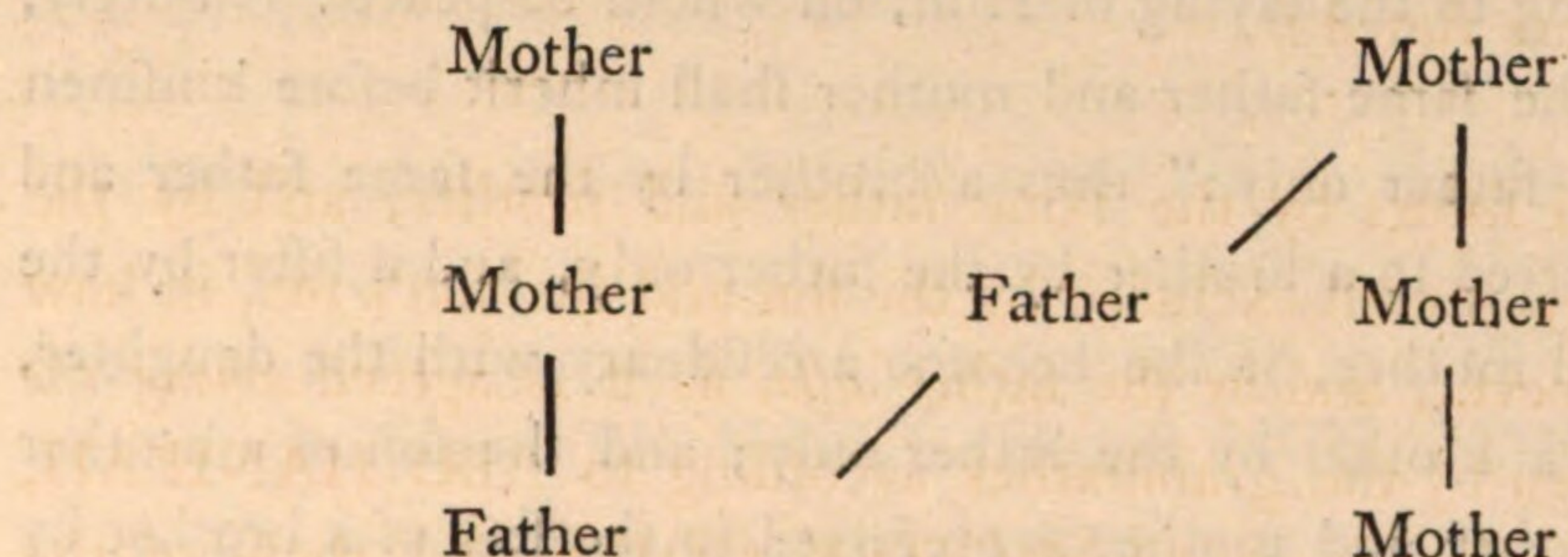
Sisters by the same father only are like sisters by the same father and mother, and may be in seven cases : half goes to one, and two thirds to two or more on failure of sisters by the same father and mother ; and, with one sister by the same father and mother, they have a sixth, as the complement of two thirds ; but they have no inheritance with two sisters by the same father and mother, unless there be with them a brother by the same father, who makes them residuaries ; and then the residue is *distributed* among them *by the sacred rule* “ to

“the male what is equal to the share of two females.” The sixth case is, where they are residuaries with daughters or with son’s daughters, as we have before stated *it*.

Brothers and sisters by the same father and mother, and by the same father only, are all excluded by the son and the son’s son, in how low a degree soever, and by the father *also*, as it is agreed *among the learned*, and even by the grandfather according to ABU HANIFAH, on whom be the mercy of ALMIGHTY GOD! And those of the half-blood are also excluded by the brothers of the whole blood.

The mother takes in three cases : a sixth with a child, or a son’s child, even in the lowest degree, or with two brothers and sisters or more, by whichever side they are related ; and a third of the whole on failure of those just-mentioned ; and a third of the residue after the share of the husband or wife ; and this in two cases, either when there are the husband and both parents, or the wife and both parents : if there be a grandfather instead of a father, then the mother takes a third of the whole property, though not by the opinion of ABU YUSUF, on whom be GOD’s mercy ! for he says, that in this case also she has only a third of the residue. The grandmother has a sixth, whether she be by the father or by the mother, whether alone or with more, if they be true grandmothers and equal in degree ; but they are all excluded by the mother, and the paternal female ancestors also by the father ; and, in like manner, by the grandfather, except the father’s mother, even in the highest degree ; for she takes with the grandfather, since she is not *related* through him. The nearest grandmother, *or female ancestor*, on either side, excludes the more distant grandmother, on whichever side she be ; whether the nearer grandmother be entitled to a share of the inheritance, or be herself excluded. When a grandmother has but one relation, as the father’s mother’s mother, and another has two such relations,

relations, or more, as the mother's mother's mother, who is also the father's father's mother, according to this table,



then a sixth is divided between them, according to ABU YUSUF, in moieties, respect being had to their persons; but, according to MUHAMMED (on whom be GOD's mercy!) in thirds, respect being had to the fides.

On Residuaries.

RESIDUARIES by relation *to the deceased* are three: the residuary in his own right, the residuary in another's right, and the residuary together with another. Now the residuary in his own right is every male, in whose line of relation to the deceased no female enters; and of this sort there are four classes; the offspring of the deceased, and his root; and the offspring of his father and of his nearest grandfather, a preference being given, I mean a preference in the right of inheritance, according to proximity of degree. The offspring of the deceased are his sons *first*; then their sons, in how low a degree soever: then *comes* his root, or his father; then his paternal grandfather, and their paternal grandfathers, how high soever; then the offspring of his father, or his brothers; then their sons, how low soever; and then the offspring of his grandfather, or his uncles: then their sons, how low soever. Then the

the strength of consanguinity prevails: I mean, he, who has two relations is preferable to him, who has only one relation, whether it be male or female, according to the saying of Him, on whom be peace! "Surely, " kinsmen by the same father and mother shall inherit before kinsmen " by the same father only:" thus a brother by the same father and mother is preferred to a brother by the father only, and a sister by the same father and mother, if she become a residuary with the daughter, is preferred to a brother by the father only; and the son of a brother by the same father and mother is preferred to the son of a brother by the same father only; and the rule is the same in regard to the paternal uncles of the deceased; and, after them, to the paternal uncles of his father, and, after them, to the paternal uncles of his grandfather.

The residuaries in another's right are four females; namely, those whose shares are half and two thirds, and who become residuaries in right of their brothers, as we have before mentioned in their different cases; but she, who has no share among females, and whose brother is the heir, doth not become a residuary in his right; as in the case of a paternal uncle and a paternal aunt.

As to residuaries together with others: such is every female who becomes a residuary with another female; as a sister with a daughter, as we have mentioned before. The last residuary is the master of a freedman, and then his residuary heirs, in the order before stated; according to the saying of Him, on whom be blessing and peace! "The master bears a relation like that of consanguinity;" but females have nothing among the heirs of a manumittor, according to the saying of Him, on whom be blessing and peace! "Women have nothing " from their relation to freedmen, except when they have themselves " manumitted a slave; or their freedman has manumitted one, or they " have sold a manumission to a slave, or their vendee has sold it to his
" slave,

“ slave, or they have promised manumission after their death, or their
 “ promisee has promised it after his death, or unless their freedman
 “ or freedman’s freedman draw a relation *to them*.”

If the freedman leave the father and son of his manumittor, then a sixth of the right over the property of the freedman vests in the father, and the residue in the son, according to *ABU YUSUF*; but, according to both *ABU HANIFAH* and *MUHAMMED*, the whole right vests in the son; and, if a son and a grandfather of the manumittor be left, the whole right over the freedman goes to the son, as all the learned agree. When a man possesses as his slave a kinsman in a prohibited degree, he manumits him, and his right vests in him; as if there be three daughters, the youngest of whom has twenty *dinàrs*, and the eldest, thirty; and they two buy their father for fifty *dinàrs*; and afterwards their father die leaving some property; then two thirds of it are divided in thirds among them, as their legal shares, and the residue goes in fifths to the two who bought their father; three fifths to the eldest and two fifths to the youngest; which may be settled by dividing the whole into forty-five parts.

On Exclusion.

EXCLUSION is of two sorts: 1. *Imperfect*, or an exclusion from one share, and an admission to another; and this takes place in respect of five persons, the husband or wife, the mother, the son’s daughter, and the sister by the same father; and an explanation of it has preceded. 2. *Perfect* exclusion: there are two sets of persons having a claim to the inheritance: one of which sets is not excluded entirely in any case;

case ; and they are six persons, the son, the father, the husband, the daughter, the mother, and the wife ; but the other set inherit in one case and in another case are excluded. This is grounded on two principles ; one of which is, that “ whoever is related to the deceased “ through any person, shall not inherit, while that person is living ;” as a son’s son, with the son ; except the mother’s children, for they inherit with her ; since she has no title to the whole inheritance : the second *principle* is, “ that the nearest *of blood* must take,” and who the nearest is, we have explained *in the chapter* on residuaries. A person incapable of inheriting doth not exclude any one, *at least* in our opinion ; but, according to IBNU MASUUD (may GOD be gracious to him !) he excludes imperfectly ; as an infidel, a murderer, and a slave. A person excluded may, as all *the learned* agree, exclude *others* ; as, *if there be* two brothers or sisters or more, on which ever side they are, they do not inherit with the father *of the deceased*, yet they drive the mother from a third to a sixth.

On the Divisors of Shares.

KNOW, that the six shares mentioned in the book of Almighty GOD are of two sorts : of the first are a moiety, a fourth, and an eighth ; and of the second sort are two thirds, a third, and a sixth, as the fractions are halved and doubled. Now, when any of these shares occur in cases singly, the divisor for each share is that number which gives it its name (except half, which is from two), as a fourth denominated from four, an eighth from eight, and a third from three : when they occur by two or three, and are of the same sort, then each integral number is the proper divisor to produce its fraction, and also to produce the

the double of that fraction, and the double of that, as six produces a sixth, and likewise a third, and two thirds; but, when half, *which is* from the first sort, is mixed with all of the second sort or with some of them, then *the division of the estate must be* by six; when a fourth is mixed with all of the second sort or with some of them, then the division must be into twelve; and when an eighth is mixed with all of the second sort, or with some of them, then it must be into four and twenty parts.

On the Increase.

ÂUL, or *increase*, is, when some fraction remains above the *regular* divisor, or when the divisor is too small to admit one share. Know, that the whole number of divisors is seven, four of which have no increase, namely, two, three, four, and eight; and three of them have an increase. The *divisor*, six, is, therefore, increased by the *âul* to ten, either by odd, or by even, numbers; twelve is raised to seventeen by odd, not by even, numbers; and twenty-four is raised to twenty-seven by one increase only; as in the case, called *Mimberiyya* (or a case answered by ALI when he was in the pulpit), which was this, “*A man left a wife, two daughters, and both his parents.*” After this there can be no increase, except according to IBN MASÛD (may GOD be gracious to him!) for, in his opinion, the divisor twenty-four may be raised to thirty-one; as *if a man leave* a wife, his mother, two sisters by the same parents, two sisters by the same mother only, and a son rendered incapable of inheriting.

On

On the Equality, Proportion, Agreement, and Difference of two Numbers.

THE *temáthul* of two numbers is the equality of one to the other; the *tedákbul* is, when the smaller of two numbers exactly measures the larger, or exhausts it; or we call it *tedákbul*, when the larger of two numbers is divided exactly by the smaller; or we may define it thus, when the larger exceeds the smaller by one number or more equal to it, or equal to the larger; or it is, when the smaller is an aliquot part of the larger, as three of nine. The *tawáfuk*, or agreement, of two numbers is, where the smaller does not exactly measure the larger, but a third number measures them both, as eight and twenty, each of which is measured by four, and they agree in a fourth; since the number measuring them is the denominator of a fraction common to both. The *tabáyun* of two numbers is, when no third number whatever measures the two discordant numbers, as nine and ten. Now the way of knowing the agreement or disagreement between two different quantities is, that the greater be diminished by the smaller quantity on both sides, once or oftener, until they agree in one point; and if they agree in unit only, there is no numerical agreement between them; but, if they agree in any number, then they are (*said to be*) *mutawáfik* in a fraction, of which that number is the denominator; if two, in half; if three, in a third; if four, in a quarter; and so on, as far as ten; and, above ten, they agree in a fraction; I mean, if the number be eleven, the fraction of eleven, and, if it be fifteen, by the fraction of fifteen. Pay attention to this *rule*.

On

On Arrangement.

IN arranging cases there is need of seven principles; three, between the shares and the persons, and four between persons and persons. Of the three *principles* the first is, that, if the portions of all the classes be divided among them without a fraction, there is no need of multiplication, as *if a man leave* both parents and two daughters. The second is, that, if the portions of one class be fractional, yet there be an agreement between their portions and their persons, then the measure of the number of persons, whose shares are broken, must be multiplied by the root of the case, and its increase, if it be an increased case, as *if a man leave* both parents and ten daughters, or *a woman leave* a husband, both parents, and six daughters. The third *principle* is, that, if their portions leave a fraction, and there be no agreement between those portions and the persons, then the whole number of the persons, whose shares are broken, must be multiplied into the root of the case, as *if a woman leave* her husband and five sisters by the same father and mother. Of the four *other principles* the first is, that, when there is a fractional division between two classes or more, but an equality between the numbers of the persons, then the rule is, that one of the numbers be multiplied into the root of the case; as *if there be* six daughters, and three grandmothers, and three paternal uncles. The second is, when some of the numbers equally measure the others; then the rule is, that the greater number be multiplied into the root of the case; as, *if a man leave* four wives and three grandmothers and twelve paternal uncles. The third is, when some of the numbers are *mutawâfik*, or composit, with others; then the rule is, that the measure of the first of the numbers be multiplied into the whole of the second, and the product into the measure of the third, if the product of the third be *mutawâfik*, or, if not, into the whole of the third, and then into the fourth, and so on, in the

same manner; after which the product must be multiplied into the root of the case: as, *if a man leave* four wives, eighteen daughters, fifteen female ancestors, and six paternal uncles. The fourth *principle* is, when the numbers are *mutabáyan*, or not agreeing one with another; and then the rule is, that the first of the numbers be multiplied into the whole of the second, and the product multiplied by the whole of the third, and that product into the whole of the fourth, and the last product into the root of the case; as, *if a man leave* two wives, six female ancestors, ten daughters, and seven paternal uncles.

Section.

WHEN thou desirest to know the share of each class by arrangement, multiply what each class has from the root of the case by what thou hast already multiplied into the root of the case, and the product is the share of that class; and, if thou desirest to know the share of each individual in that class by arrangement, divide what each class has from the principle of the case by the number of the persons in it, then multiply the quotient into the multiplicand, and the product *will be* the share of each individual in that class. Another method is, to divide the multiplied number by whichever class thou thinkest proper, then to multiply the quotient into the share of that set, by which thou hast divided the multiplied number, and the product *will be* the share of each individual in that set. Another method is by the way of proportion, which is the clearest; and it is, that a proportion be ascertained for the share of each class from the root of the case to the number of persons one by one, and that, according to such proportion from the multiplied *number*, a share be given to each individual of that class.

On

On the Division of the Property left among Heirs and among Creditors.

IF there be a disagreement between the property left and the *number arising from the arrangement*, then multiply the portion of each heir, according to that arrangement, into the aggregate of the property, and divide the product by the number of the arrangement, but, when there is an agreement between the arrangement and the property left, then multiply the portion of each heir, according to the arrangement into the measure of the property, and divide the product by the measure of the *number arising from the arrangement*: the quotient is the portion of that heir in both methods. This *rule* is in order to know the portion of each individual among the heirs; but, in order to know the portion of each class of them, multiply what each class has, according to the root of the case, into the measure of the property left, then divide the product by the measure of the case, if there be an agreement between the property left and the case; but, if there be a disagreement between them, then multiply into the whole of the property left, and divide the product by the whole *number arising from the verification of the case*; and the quotient *will be* the portion of that class in both methods. Now, as to the payment of debts, the debts of all the creditors stand in the place of the arranging number.

On Subtraction.

WHEN any one agrees to take a part of the property left, subtract his share from *the number arising* by the proof, and divide the remainder of the property by the portions of those who remain; as if a woman leave her

her husband, her mother, and a paternal uncle : now *suppose that* the husband agrees to take what was in his power of his bridal gift to the wife ; this is deducted from among *the heirs* : then what remains is divided between the mother and the uncle in thirds, according to their legal shares ; and thus there will be two parts for the mother, and one for the uncle.

On the Return.

THE return is the converse of the increase ; and it *takes place* in what remains above the shares of those entitled to them, when there is no legal claimant of it : this *surplus* is returned to the sharers according to their rights, except the husband or the wife ; and this is the opinion of all the *Prophet's* companions, as ÂLI and his followers, may GOD be gracious to them ! And our masters (to whom GOD be merciful !) have assented to it : ZAID, the son of THÁBIT says, that the surplus doth not revert, but *goes* to the publick treasury ; and to this opinion have assented ÛRWAH and ALZUHRÍ and MÁLIC and ALSHÁFÍÎ, may GOD be merciful to them !

Now the cases on this head are *in* four divisions : the first of them *is*, when there is in the case but one sort of kinsmen, to whom a return must be made, and none of those who are not entitled to a return : then settle the case according to the number of persons ; as, when the deceased has left two daughters, or two sisters, or two female ancestors ; settle it, therefore, by two. The second *is*, when there are joined in the case two or three sorts of those, to whom a return must be made, without any of those, to whom there is no return : then settle the case according to their shares ; I mean by two, if there be

two

two sixths in the case; or by three, when there are a third and a sixth in it; or by four, when there are a moiety and a sixth in it; or by five, when there are in it two thirds and a sixth, or half and two sixths, or half and a third. The third *is*, when in the first case, there is *any one* to whom no return can be made: then give the share of him or her, to whom there is no return, according to the lowest *denominator*, and if the residue exactly quadrate with the number of persons, who are entitled to a return, *it is well*; as *if there be* a husband and three daughters; but, if they do not agree, then multiply the measure *of the number* of the persons, if there be an agreement between the number of persons and the residue, into the denominator of the shares of those, to whom no return is to be made: as *if there be* a husband, and six daughters; if not, multiply the whole number of the persons into the denominator of the share of those, to whom there is no return; and the product will set the case right. The fourth is, when, in the second case, there are any to whom no return is made: then divide what remains from the denominator of the share of him or them, who have no return, by the case of those, to whom a return must be made, and, if the remainder quadrate, *it is well*; and this *is* in one form; that is, when a fourth *goes* to the wives, and the residue is *distributed* in thirds among those entitled to a return; as *if there be* a wife, and a grandmother, and two sisters by the mother's side: but, if it do not quadrate, then multiply the whole case of those, who are entitled to a return, into the denominator of the share of him or her, who is not entitled to it; and the product will be the denominator of the shares of both classes; as *if there be* four wives, and nine daughters, and six female ancestors: then multiply the shares of those, to whom no return must be made, into the case of those, who are entitled to a return, and the shares of those, to whom a return is to be made, into what remains of the denominator of the share of those, who are not entitled to a return. If there be a fraction in some, adjust the case by the before-mentioned principles.

On

On the Division of the Paternal Grandfather.

ABUBEKR the Just (on whom be the grace of GOD!) and those, who followed him, among the companions of the Prophet, say, "the brethren of the whole blood and the brethren by the father's side inherit not with the grandfather:" this is also the decision of ABU HANÍFA (on whom be GOD's mercy!) and judgments are given conformably to it. ZAID the son of THÁBIT, indeed, asserts, that they *do* inherit with the grandfather, and of this opinion are both ABU YUSUF and MUHAMMED, as well as MÁLIC and ALSHAFÍ. According to ZAID, the son of THÁBIT (on whom be GOD's mercy!) the grandfather, with brothers or sisters of the whole blood and by the father's side, takes the best in two cases, from the *muká-samah*, or *division*, and from a third of the whole estate. The meaning of *muká-samah* is, that the grandfather is placed in the division as one of the brethren, and the brethren of the half blood enter into the division with those of the whole blood, to the prejudice of the grandfather; but, when the grandfather has received his allotment, then the half blood are removed from the rest, *as if* disinherited, and receive nothing; and the residue goes to the brethren of the whole blood; except when, among those of the whole blood there is a single sister, who receives her legal share, I mean the whole after the grandfather's allotment: then, if any thing remains, *it goes* to the half blood; if not, they have nothing; and this *is the case*, when a man leaves a grandfather, a sister by the same father and mother, and two sisters by the same father only: *in this case* there remains to those sisters a tenth of the estate, and the correct denominator *is* twenty; but, if there be, in the preceding case, one sister by the same father only, nothing remains for her; and if one, entitled to a legal share, be mixed with them, then, after he has received his share, the grandfather has the best in three arrangements; either

either the division, when *a woman leaves* her husband, a grandfather, and a brother ; or a third of the residue *is given*, when a man leaves a grandfather, a grandmother, and two brothers, and a sister by the same father and mother. Or a sixth of the whole estate *is given*, when a man leaves a grandfather and a grandmother, a daughter, and two brothers ; and, when a third of the residue is better from the grandfather, and the residue has not a complete third, multiply the denominator of the third into the root of the case. If a woman leave a grandfather, her husband, a daughter, her mother, and a sister by the same father and mother, or by the same father only, then a sixth is best for the grandfather, and the *root of the case* is raised to thirteen, and the sister has nothing. Know, that ZAID, the son of THABIT (on whom be GOD's grace !) has not placed the sister by the same father and mother, or by the same father, as entitled to a share with the grandfather, except in the case, named *acdariyyah*, and that is, the husband, the mother, a grandfather, and a sister by the same father and mother, or by the same father only ; *in which case* the husband *ought to have* a moiety ; the mother, a third ; the grandfather, a sixth ; and the sister, a moiety ; then the grandfather annexes his share to that of the sister, and, a division is made between them *by the rule* " a male has the portion of two females ;" *and this is*, because the division is best for the grandfather. The root is *regularly* six, but is increased to nine ; and a correct distribution is made by twenty-seven. The case is called *acdariyyah*, because it occurred on *the death of* a woman belonging to the tribe of ACDAR. If, instead of the sister, there be a brother or two sisters, there is no increase, nor *is that case* an *acdariyyah*.

On Succession to Vested Interests.

IF some of the shares become vested inheritances before the distribution, as *if a woman leave* her husband, a daughter, and her mother, and the husband die, before the estate can be distributed, leaving a wife and both his parents, *if* then the daughter die leaving two sons, a daughter, and a *maternal* grandmother, and then the grandmother die leaving her husband and two brothers, the principle in this *event* is, that the case of the first deceased be arranged, and that the allotment of each heir be *considered* as delivered according to that arrangement; that, next, the case of the second deceased be arranged, and that a comparison be made between what was in his hands, *or vested in interest*, from the first arrangement, and between the second arrangement, in three situations; and if, on account of equality, what *is* in his hands from the first arrangement quadrate with the second arrangement, then there is no need of multiplication; but, if it be not right, then see whether there be an agreement between the two, and multiply the measure of the second arrangement into the whole of the first arrangement; and, if there be a disagreement between them, then multiply the whole of the second arrangement into the whole of the first arrangement, and the product *will be* the denominator of both cases. The allotments of the heirs of the first deceased must be multiplied into the former multiplicand, I mean into the second arrangement or into its measure; and the allotments of the heirs of the second deceased must be multiplied into the whole of what *was* in his hands, or into its measure; and, if a third or a fourth die, put the second product in the place of the first arrangement, and the third case in the place of the second, in working; *and* thus in *the case of* a fourth and a fifth, and so on to infinity.

On

On Distant Kindred.

A DISTANT kinsman *is* every relation, who is neither a sharer nor a residuary. The generality of the *Prophet's* companions repeat a tradition concerning the inheritance of distant kinsmen; and, according to this, our masters and their followers (may GOD be merciful to them!) have decided; but ZAID, the son of THABIT (on whom be GOD's grace!) says: "there is no inheritance for the distant kindred, " but the property *undisposed of* is placed in the publick treasury;" and with him agree MÁLIC and ALSHAFIÎ, on whom be GOD's mercy! Now these distant kindred *are* of four classes: the first class is descended from the deceased; and they are the daughters' children, and the children of the son's daughters. The second sort *are* they, from whom the deceased descend; and they are the excluded grandfathers and the excluded grandmothers. The third sort are descended from the parents of the deceased; and they *are* the sisters' children and the brothers' daughters, and the sons of brothers by the same mother only. The fourth sort are descended from the two grandfathers and two grandmothers of the deceased; and they are, paternal aunts, and uncles by the same mother *only*, and maternal uncles and aunts. These, and all who are related to the deceased through them, are among the distant kindred. ABÚ SULAIMÁN reports from MUHAMMED the son of ALHASAN, *who reported* from ABU HANÍFAH (on whom be GOD's mercy!) that the second sort are the nearest of the *four* sorts, how high soever they ascend; then the first, how low soever they descend; then the third, how low soever; and lastly, the fourth, how distant soever *their degree*: but ABU YÚSUF and ALHASAN the son of ZIYAD, report from ABU HANÍFAH (on whom be the mercy of GOD!) that the nearest of the *four* sorts is the first, then the second, then the third, then the fourth, like the order of the residuaries; and this *is*

taken *as a rule* for decision. According to both *ABU YUSUF* and *MUHAMMED*, the third sort has a preference over the maternal grandfather.

On the First Class.

THE best entitled of them to the succession is the nearest of them in degree to the deceased; as the daughter's daughter, who is preferred to the daughter of the son's daughter; and, if *the claimants* are equal in degree, then the child of an heir is preferred to the child of a distant relation; as the daughter of a son's daughter is preferred to the son of a daughter's daughter; but, if their degrees be equal, and there be not among them the child of an heir, or, if all of them be the children of heirs, then, according to *ABU YUSUF* (may GOD be merciful to him!) and *ALHASAN*, son of *ZIYAD*, the persons of the branches are considered, and the property is distributed among them equally, whether the condition of the roots, as male or female, agree or disagree; but *MUHAMMED* (on whom be GOD's mercy!) considers the persons of the branches, if the sex of the roots agree, *in which respect* he concurs with the other two; and he considers the persons of the roots, if their sexes be different, and, he gives to the branches the inheritance of the roots, in opposition to the two *lawyers*. For instance, when *a man* leaves a daughter's son, and a daughter's daughter, *then*, according to *ABU YUSUF* and *ALHASAN*, the property is distributed between them, *by the rule* "the male has the portion of two females," their persons being considered; and, according to *MUHAMMED*, in the same manner; because the sexes of the roots agree: and, if *a man* leave the daughter of a daughter's son, and the son of a daughter's

daughter's daughter, *then*, according to the two *first mentioned lawyers*, the property *is divided* in thirds between the branches, by considering the persons, two thirds of it *being given* to the male, and one third to the female ; but, according to MUHAMMED (on whom be GOD's mercy !) the property *is divided* between the roots, I mean *those* in the second rank, in thirds, two thirds *going* to the daughter of the daughter's son, *namely*, the allotment of her father, and one third of it to the son of the daughter's daughter, *namely*, the share of his mother. Thus, according to MUHAMMED (to whom GOD be merciful !) when the children of the daughters are different *in sex*, the property is divided according to the first rank *that* differs among the roots ; then the males are arranged in one class, and the females in another class, after the division, and what goes to the males is collected and distributed according to the highest difference, that occurs among their children, and, in the same manner, what goes to the females ; and thus the operation is continued to the end according to this scheme :

S	S	S	D	D	D	D	D	D	D	D	D	D
D	D	D	D	D	D	D	D	D	D	D	D	D
S	D	D	S	S	S	D	D	D	D	D	D	D
D	D	D	S	D	D	S	S	S	D	D	D	D
D	S	D	D	D	D	S	D	D	S	D	D	D
D	D	D	D	D	S	D	D	S	D	S	D	D

Thus MUHAMMED (to whom GOD be merciful !) takes the sex from the root at the time of the distribution, and the number from the branches ; as, *if a man* leave two sons of a daughter's daughter's daughter, and a daughter of a daughter's daughter's son, and two daughters of a daughter's son's daughter, in this form :

The

The Deceased,

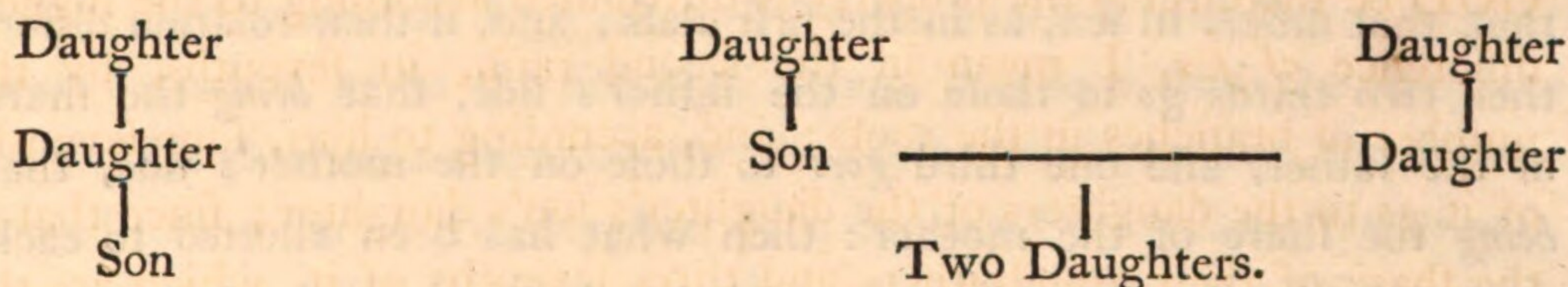
Daughter	Daughter	Daughter
Son	Daughter	Daughter
Daughter	Son	Daughter
Two Daughters	Daughter	Two Sons.

In this case according to ABU YUSUF (on whom be GOD's mercy !) the property is divided among the branches in seven parts, by considering their persons ; but, according to MUHAMMED (to whom GOD be merciful !) the property is distributed according to the highest difference of sex, I mean in the second rank, in sevenths, by the number of branches in the roots ; and, according to him, four sevenths of it go to the daughters of the daughter's son's daughter ; since that is the share of their grandfather, and three sevenths of it, which are the allotment of the two daughters, are divided between their two children, I mean those in the third rank, in moieties ; one moiety to the daughter of the daughter's daughter's son, *which* is the share of her father, and the other moiety to the two sons of the daughter's daughter's daughter, *being* the share of their mother : the correct divisor of the property is, in this case, twenty-eight. The opinion of MUHAMMED (on whom be GOD's mercy !) is the more generally received of the two traditions from ABU HANIFAH (to whom GOD be merciful !) in all decisions concerning the distant kindred ; and this was the first opinion of ABU YUSUF ; then he departed *from it*, and said that the roots were by no means to be considered.

A Section.

A Section.

OUR learned *lawyers* (on whom be the mercy of GOD !) consider the *different* sides in succession ; except that ABU YUSUF (may GOD be merciful to him !) considers the sides in the persons of the branches, and MUHAMMED (on whom be GOD's mercy !) considers the sides in the roots ; as, when *a man* leaves two daughters of a daughter's daughter, who *are* also the two daughters of a daughter's son, and the son of a daughter's daughter, according to this scheme :

The Deceased.

In this case, according to ABU YUSUF, the property *is divided* among them in thirds, and then the deceased is considered as if he had left four daughters and a son ; two thirds of it, therefore, go to the two daughters, and one third to the son : but, according to MUHAMMED (to whom GOD be merciful !) the estate *is divided* among them in twenty-eight parts, to the two daughters twenty-two shares (sixteen in right of their father and six shares in right of their mother) and to the son six shares in right of his mother.

On the Second Class.

HE among them, who is preferred in the succession, is the nearest of them to the deceased, on which side soever he stands ; and, in the
case

case of equality in the degrees of proximity, then he, who is related to the deceased through an heir, is preferred by the opinion of ABU SUHAIL, *surnamed* ALFERÁIDI, of ABU FUDAIL ALKHASSÁF, and of ALI, the son of ISAI ALBASRI; but, no preference *is given* to him according to ABU SULAIMAN ALJURJÁNI, and ABU ALI AL BAIHATHI ALBUSTI. If their degrees be equal, and there be none among them, who is related through an heir, or, if all of them be related through an heir, then, if the sex of those, through whom they are related, agree, and their relation be on the same side, the distribution is according to their persons, but if the sex of those, to whom they are related, be different, the property is distributed according to the first rank that differs in sex, as in the first class; and, if their relation differ, then two thirds *go* to those on the father's side, that *being* the share of the father, and one third *goes* to those on the mother's side, that *being* the share of the mother: then what has been allotted to each set is distributed among them, as if their relation were the same.

On the Third Class.

THE rule concerning them is the same with that concerning the first class; I mean, *that* he *is* preferred in the succession, who is nearest to the deceased: and, if they be equal in relation, then the child of a residuary *is* preferred to the child of a more distant kinsman; as, *if a man leave* the daughter of a brother's son, and the son of a sister's daughter, both of them by *the same* father and mother, or by *the same* father, or one of them by *the same* father and mother, and the other by *the same* father *only*: *in this case* the whole estate *goes* to the daughter of the brother's son, because she is the child of a residuary; and, if it be by *the same* mother *only*, *distribution is made* between them *by the rule*, "A
" male

“ male has the share of two females,” *and*, by the opinion of ABU YUSUF (to whom GOD be merciful !) in thirds, according to the persons, but, by that of MUHAMMED (may GOD be merciful to him !) in moieties according to the roots ; and, if they be equal in proximity, and there be no child of a residuary among them, or *if* all of them be children of residuaries, or if some of them be children of residuaries, and some of them children of those entitled to shares, and their relation differ, then ABU YUSUF (to whom GOD be merciful !) considers the strongest *in consanguinity* ; but MUHAMMED (may GOD be merciful to him !) divides the property among the brothers and sisters in moieties, considering as well the number of the branches, as the sides in the roots ; and what has been allotted to each set is distributed among their branches, as in the first class : thus, *if a man leave* the daughter of the daughter of a sister by *the same* father and mother, she is preferred to the son of the daughter of a brother by the same father *only*, according to ABU YUSUF (to whom GOD be merciful !) by reason of the strength of relation ; but, according to MUHAMMED (may GOD be merciful to him !) the property is divided between them both in moieties by consideration of the roots. So, when *a man* leaves three daughters of different brothers, and three sons and three daughters of different sisters, *as* in this figure :

The Deceased.

Sister — Sister — Sister — Brother — Brother — Brother

by the same

Mother — Father — Father — Mother — Father — Father

and Mother

and Mother

Son Son Son Daughter Daughter Daughter Daughter
Daughter Daughter.

In

In this case, according to ABU YUSUF, the property is divided among the branches of the whole blood, then among the branches by the same father, then among the branches by the same mother, *according to the rule* "the male has the allotment of two females," in fourths, by considering the persons; but, according to MUHAMMED (to whom GOD be merciful!) a third of the estate is divided equally among the branches by the same mother, in thirds, by considering the equality of their roots in the division of the parents, and the remainder among the branches of the whole blood in moieties, by considering in the roots the number of the branches; one half to the daughter of the brother, the portion of the father, and the other between the children of the sister, the male having the allotment of two females, by considering the persons; and *the estate* is correctly divided by nine. If *a man* leave three daughters of different brothers' sons, in this manner:

The Deceased.

Daughter — Daughter — Daughter

of a Son of a Brother by the same

Father and Mother — Father — Mother

all the property goes to the daughter of the son of the brother by the same father and mother, by the unanimous opinion *of the learned*, since she is the child of a residuary, and hath also the strength of consanguinity.

On

On the Fourth Class.

THE rule as to them *is*, that, when there is only one of them, he has a right to the whole property, since there is none to obstruct him; and, when there are several, and the sides of their relation are the same, as paternal aunts and paternal uncles by the same mother *with the father*, or maternal uncles and aunts, then the stronger of them in consanguinity is preferred, by the general assent; I mean, they, who are *related* by father and mother, are preferred to those, who are *related* by the father *only*, and they, who are *related* by the father, are preferred to those, who are *related* by the mother only, whether they be males or females; and, if there be males and females and their relation be equal, then the male has the allotment of two females; as, *if there be* a paternal uncle and aunt both by *one* mother, or a maternal uncle and aunt, both by the same father and mother, or by the same father, or by the same mother only: and if the sides of their consanguinity be different, then no regard *is shown* to the strength of relation; as, *if there be* a paternal aunt by the same father and mother, and a maternal aunt by the same mother, or a maternal aunt by the same father and mother, and a paternal aunt by the same mother only, then two thirds *go* to the kindred of the father, for they *are* the father's allotment, and one third to the kindred of the mother, for that *is* the mother's allotment; then what is allotted to each set is divided among them, as if the place of their consanguinity were the same.

On their Children, and the Rules concerning them.

THE rule as to them *is* like the rule concerning the first class; I mean, *that* the best entitled of them to the succession is the nearest of

them to the deceased on whichever side he is *related*; and, if they be equal in relation, and the place of their consanguinity be the same, then he, who has the strength of blood, is preferred, by the general assent; and, if they be equal in degree and in blood, and the place of their consanguinity be the same, then the child of a residuary is preferred to whoever is not *such*; as, *if a man leave* the daughter of a paternal uncle, and the son of a paternal aunt, both of them by *the same* father and mother, or by *the same* father, all the property goes to the daughter of the paternal uncle; and, if one of them be by *the same* father and mother, and the other by the same father only, *then* all the estate goes to the claimant, who has the strength of consanguinity, according to the clearer tradition; *and this* by analogy to the maternal aunt by the same father, for though she be the child of a distant kinsman, yet she is preferred, by the strength of consanguinity, to the maternal aunt by the *same* mother *only*, though she be the child of an heir; since the weight which prevails by itself, that is, the strength of consanguinity, is greater than the weight by another, which is the descent from an heir. Some of them (the learned) say, *that* the whole estate goes to the daughter of the paternal uncle by the same father, since she is the daughter of a residuary; and, if they be equal in degree, yet the place of their relation differ, they have no regard *shown* to the strength of consanguinity, nor to the descent from a residuary, according to the clearer tradition; by analogy to the paternal aunt by the same father and mother, for though she have two bloods, and be the child of an heir on both sides, and her mother be entitled to a legal share, *yet* she is not preferred to the maternal aunt by the *same* father; but two thirds *go* to whoever is related by the father; and their regard is shown to the strength of blood; then to the descent from a residuary; and one third *goes* to whoever is related by the mother, and there *too* regard is shown to strength of consanguinity: then, according to ABU YUSUF (may GOD be merciful to him!) what belongs to each set is divided among
the

the persons of their branches, with attention to the number of fides in the branches ; and, according to MUHAMMED (may GOD be merciful to him !) the property is distributed by the first line, *that* differs, with attention to the number of the branches and of the fides in the roots, as in the first class ; then this rule is applied to the fides of the paternal uncles of his parents and their maternal uncles ; then to their children ; then to the fide of the paternal uncles of the parents of his parents, and to their maternal uncles ; then to their children, as in the *case of residuaries*.

On Hermaphrodites.

To the hermaphrodite, *whose sex is quite doubtful, is allotted the smaller of two shares, I mean the worse of two conditions, according to ABU HANÍFAH (may GOD be merciful to him !)* and his friends, and this is the doctrine of the generality of the *Prophet's* companions (may GOD be gracious to them !) and conformable to it are decisions *given* ; as, when *a man* leaves a son, and a daughter, and an hermaphrodite, then the hermaphrodite has the share of a daughter, since that is ascertained : and according to ÂÁMIR ALSHÂBI (and this is the opinion of IBNU ÂBBÁS, may GOD be gracious to them both !) the hermaphrodite has a moiety of the two shares in the controversy ; but *the two great lawyers* differ in putting in practice the doctrine of ALSHÂBI : for ABU YÚSUF says, *that* the son has one share, and the daughter half a share, and the hermaphrodite three fourths of a share, since the hermaphrodite would be entitled to a share, if he were a male, and to half a share, if he were a female, and this is settled by *his* taking

taking half the sum of the two portions ; or, we may say, he takes the moiety which is ascertained, together with half the moiety which is disputed, so that there come to him three fourths of a share ; for he (ABU YUSUF) pays attention to the legal share and to the increase, and he verifies *the case* by nine ; or, we may say, the son has two shares, and the daughter one share, and the hermaphrodite a moiety of the two allotments, and that *is* a share and half a share. But MUHAMMED (may GOD be merciful to him !) says, that the hermaphrodite would take two fifths of the estate, if he were a male, and a fourth of the estate, if he were a female, and that he takes a moiety of the two allotments, and that *will give him* one fifth and an eighth by attention to both sexes ; and the case is rectified by forty ; since that is the product of one of the *numbers in the* two cases, which is four, multiplied into the other, which is five, and that product multiplied by two (*which is the number of the*) cases ; and then he, who takes any thing by five, *has it* multiplied into four, and he, who takes any thing by four, *has it* multiplied into five ; so that thirteen shares go to the hermaphrodite, and eighteen to the son, and nine to the daughter.

On Pregnancy.

THE longest time of pregnancy *is* two years, according to ABU HANÍFAH (may GOD be merciful to him !) and his companions ; and according to LAITH, the son of SÂD ALFAHMI' (may GOD be merciful to him !) three years ; and, according to ALSHÁFI' (may GOD be merciful to him !) four years : but according to ALZUHRI (may GOD be merciful to him !) seven years : and the shortest time for it is six months. There is reserved for the child in the womb, according

according to ABU HANÍFAH (may GOD be merciful to him !) the portion of four sons, or the portion of four daughters, whichever of the two is most ; and there is given to the rest of the heirs the smallest of the portions ; but, according to MUHAMMED (may GOD be merciful to him !) there is reserved the portion of three sons or of three daughters, whichever of the two is most : LAITH, son of SÂD (may GOD be gracious to him !) reports this *opinion* from him ; but, by another report, *there is reserved* the portion of two sons ; and one of the two opinions is that of ABU YÚSUF (may GOD be merciful to him !) as HISHÁM reports it from him ; but ALKHASSÁF reports from ABU YÚSUF (may GOD be merciful to him !) that there should be reserved the share of one son or of one daughter ; and, according to this, decisions *are made* ; and security must be taken, according to his opinion. And, if the pregnancy was by the deceased, and *the widow* produce a child at the full *time* of the longest period *allowed* for pregnancy, or within it, and the woman hath not confessed her having broken her legal term *of abstinence*, *that child* shall inherit, and others may inherit from him ; but, if she produce a child after the longest *time* of gestation, he shall not inherit, nor shall others inherit from him : and if the pregnancy was from another man than the deceased, and she, *the kinswoman*, produce a child in six months or less, he shall inherit ; but, if she produce the child after the least period of gestation, he shall not inherit.

Now the way of knowing the life of the child at the time of its birth, is, that there be found in him that, by which life is proved ; as a voice, or sneezing, or weeping, or smiling, or moving a limb ; and, if the smallest *part* of the child come out, and he then die, he shall not inherit ; but if the greater *part* of him come out, and then he die, he shall inherit : and, if he come out straight (*or with his head first*) then his breast is considered ; I mean, if his whole breast come out, he shall inherit ;

inherit ; but if he come out inverted (*or with his feet first*) then his navel is considered.

The chief rule in arranging cases on pregnancy is, that the case be arranged by two suppositions, I mean by supposing, that the child in the womb is a male, and by supposing, that it is a female : then, compare the arrangement of both cases ; and, if the numbers agree, multiply the measure of one of the two into the whole of the other ; and, if they disagree, then multiply the whole of one of the two into the whole of the other, and the product will be the arranger of the case : then multiply the allotment of him, who would have something from the case, which supposes a male, into that of the case, which supposes a female, or into its measure ; and then that of him, who takes on the supposition of a female, into the case of the male, or into its measure, as we have directed concerning the hermaphrodite ; then examine the two products of that multiplication ; and whether of the two is the less, that shall be given to such an heir ; and the difference between them must be reserved from the allotment of that heir ; and, when the child appears, if he be entitled to the whole of what has been reserved, it is well ; but, if he be entitled to a part, let him take that part, and let the remainder be distributed among the *other* heirs, and let there be given to each of those heirs what was reserved from his allotment : as, when a man has left a daughter and both his parents, and a wife pregnant, then the case *is rectified* by twenty-four on the supposition, that the child in the womb is a male, and by twenty-seven on the supposition, that it is a female : now between the two numbers of the arrangement there is an agreement in a third ; and, when the measure of one of the two is multiplied into the whole of the other, the product amounts to two hundred and sixteen, and by that *number* is the case verified ; and, on the supposition of its male sex, the wife takes twenty-seven shares, and each of

of the two parents, thirty-six; but, on the supposition of its female sex, the wife has twenty-four, and each of the parents, thirty-two; and twenty-four are given to the wife, and three shares from her allotment are reserved; and from the allotment of each of the parents are reserved four shares; and thirteen shares are given to the daughter; since the *part* reserved in her right is the allotment of four sons, according to ABU HANÍFAH (may GOD be merciful to him!) and when the sons are four, then her allotment is one share and four ninths of a share out of four-and-twenty multiplied into nine, and that makes thirteen shares; and this *belongs* to her, and the residue is reserved, which *amounts to* an hundred and fifteen shares. If the widow bring forth one daughter or more, then all the *part* reserved goes to the daughters; and, if she bring forth one son or more, then must be given to the widow and both parents what was reserved from their shares; and what remains must be divided among the children: and, if she bring forth a dead child, then must be given to the widow and both parents what was reserved from their shares, and to the daughter a complete moiety, that is, ninety-five shares *more*, and the remainder, which is nine shares, to the father, since he is the residuary.

On a Lost Person.

A LOST person is *considered as* living in regard to his estate; so that no one can inherit from him; and his estate is reserved, until his death can be ascertained; or the term for a *presumption of it* has passed over: now the traditionary opinions differ concerning that term; for, by the clearer tradition, “when, not one of his equals in age remains, judgment may be given of his death;” but HASAN, the son of ZIYÁD, reports

reports from ABU HANÍFAH (may GOD be merciful to him !) that the term is an hundred and twenty years from the day on which he was born ; and MUHAMMED says, an hundred and ten years ; and ABU YÚSUF says, an hundred and five years ; and some of them, *the learned*, say, ninety years ; and according to that *opinion* are decisions *made*. Some of *the learned in the law* say, that the estate of a lost person must be reserved for the final regulation of the *Imàm*, and the judgement suspended as to the right of another person, so that his share from the estate of his ancestors must be kept, as in the *case* of pregnancy ; and, when the term *is* elapsed, and judgement given of his death, then his estate *goes* to his heirs, *who are* to be found, according to the judgement on his decease ; and, what was reserved on his account from the estate of his ancestor, is restored to the heir of his ancestor, from whose estate that share was reserved ; since the lost person *is* dead as to the estate of another.

The principle in arranging cases concerning a lost person *is*, that the case be arranged on a supposition of his life, and then arranged on a supposition of his death ; and the rest of the operation *is* what we have mentioned in the chapter of pregnancy.

On an Apostate.

WHEN an apostate *from the faith* has died naturally, or been killed, or passed into a hostile country, and the *Kádi* has given judgement on his passage *thither*, then what he had acquired, at the time of his being a believer, *goes* to his heirs, *who are* believers ; and what he has gained since the time of the apostasy, is placed in the publick treasury,

treasury, according to ABU HANÍFAH (may GOD be merciful to him!) but, according to the two *lawyers* (ABU YÚSUF *and* MUHAMMED) both the acquisitions go to his believing heirs; and, according to ALSHÁFIÎ (may GOD be merciful to him!) both the acquisitions are placed in the publick treasury; and what he gained after his arrival in the hostile country, that *is* confiscated by the general consent: and all the property of a female apostate goes to her heirs, *who are* believers, without diversity of opinion among our masters, to whom God be merciful! but an apostate shall not inherit from any one, neither from a believer nor from an apostate like himself, and so a female apostate shall not inherit from any one; except when the people of a whole district become apostates altogether, for then they inherit reciprocally.

On a Captive.

THE rule concerning a captive *is* like the rule of other believers in regard to inheritance, as long as he has not departed from the faith; but, if he has departed from the faith, then the rule concerning him *is* the rule concerning an apostate; but, if his apostasy be not known, nor his life nor his death, then the rule concerning him *is* the rule concerning a lost person.

On Persons drowned, or burned, or overwhelmed in Ruins.

WHEN a company of *persons* die, and it is not known which of them died first, they are considered, as if they had died at the same moment;

and the estate of each of them *goes* to his heirs, *who are* living; and some of the deceased shall not inherit from others: this is the approved *opinion*. But ÂLÍ and IBNU MASÚD say, according to one of the traditions from them, *that* some of them shall inherit from others, except in what each of them has inherited from the companion of his fate.

A
COMMENTARY

ON

THE SIRÁJIYYAH.

IN our administration of justice to *Mohammedans* according to their own laws, it will be of no use to inquire, what their legislator meant by declaring, that *the law of inheritances constituted one half of juridical knowledge**: if he intended any thing more than a strong assertion of its importance, he probably had in contemplation the two general modes of acquiring property, *contracts* and *succession*, or the agreement of parties and the operation of law; and this explanation of the phrase, which had occurred to me on my first perusal of it, is also suggested by *Sayyad SHARÍF*, together with a more fanciful interpretation, which *Máulavi KÁSÍM* has adopted, that, *life* and *death* being incident to our probationary state in this world, and the law of *succession* manifestly relating to the *dead*, it is properly opposed to all other laws, which prescribe the duties and ascertain the rights of the *living*; but we merely take notice of the sentence, that no part of the *Sirájíyyah* may be unexplained, and proceed to the *four* acts, which, on the decease of a *Mohammedan*, are to be successively performed by the magistrate, or under his authority.

* Page 517.

I. A regard to publick decency and convenience, as well as to publick religion and health, seems in all nations to require, that the bodies of deceased persons be removed out of sight, with all due speed and solemnity, at a moderate expense to be defrayed, even before the payment of their just debts, out of the property left by them, on which no legal claim, from hypothecation or otherwise, had previously attached: but the *Muselman* lawyers, who admit, that the funeral charges must in the first place be defrayed, assign a very whimsical reason for such a priority; *because*, they say, the *winding-sheet and other clothes of the dead are analogous to suitable apparel worn by the living, and consequently should not be liable to the claims of a creditor.* The legal expenses of burying a *Mohammedan* are very moderate, both in the *number* and *value* of the clothes, in which the deceased is to be wrapped: as more than *three* pieces of cloth for a man, or than *five* pieces for a woman, would be held a prodigal superfluity, and less than those, a niggardly deficiency, of expense, so, if the funeral clothes of AMRU or HINDA were dearer than the vesture usually worn by them, when alive, it would be a culpable excess; and if cheaper, a blameable defect; but, if in fact they had been used to wear one sort of apparel on solemn festivals, another in visiting their friends, and a third, in their own houses, the value of their visiting dress must regulate that of their burial, and either extreme would be too prodigal or too parsimonious. Should their debts, indeed, cover the whole of their property, the *legal* expense of the funeral must be reduced to the *sufficient* expense, as it is called; that is, to *two* pieces of cloth for AMRU and to *three* for HINDA: the names, dimensions, and uses of all the cloths used in funerals, both for men and for women, are enumerated in *Persian* by *Máulaví KÁSÍM*; but it would be useless to mention them; and it seems only necessary to add on this article, that, if deceased persons leave no property whatever, or none without a special lien on it, the funeral expenses must be paid by such of their relations, as would have been compellable by law to maintain them, when living;

living ; and, if there be no such relations, by the publick treasury, in which there is always an ample fund arising from forfeitures and escheats.

II. After the burial, all the just debts of the deceased must be paid out of his remaining assets, as far as they extend ; and, if there be many creditors, they must be satisfied in equal proportion, except that *a debt of health*, to use the *Arabian* phrase, must be discharged before a *debt of sickness* ; that is, a debt *contracted* or *acknowledged*, while the party was of sound understanding and body, is preferred, when legally proved, to one *acknowledged* in sickness, but of which no other evidence is produced. A religious vow, or promise of a charitable donation, as an atonement for sin, constitutes a debt *in conscience* only ; and the sum thus promised must be paid out of a third part of the assets, after the legal creditors have been satisfied, provided that it was bequeathed by will ; but, if no will was made, the temporal estate shall not be charged with a mere debt of religion.

III. The legacies of a *Muselman*, to the prejudice of his heirs, must not exceed *a third part* of the property left by him, and remaining after the discharge of his debts : over a third of such residue he has absolute power ; and his legatee shall receive it immediately, whether a specific thing or certain sum of money, or only a fractional part of his estate, was bequeathed. This is the opinion of SHARÍF ; though a distinction, which the text by no means implies, has been taken between a *determinate* and an *indeterminate* legacy.

IV. We come now to the *distribution* of his estate, remaining after the payment of debts and legacies, among his *heirs* (for so we may call them, although *real* and *personal* property are undistinguished in the laws of the *Arabs*) according to certain rules derived from three sources,
the

the *Korán*, the genuine system of oral traditions from the legislator, and those opinions in which the learned and orthodox have generally concurred*: the order, and proportions, in which the property of AMRU or HINDA must be distributed, constitute the principal subject of the work, which we have undertaken to explain.

1. The first class of *heirs* are they, who may be called *sharers*, because a certain *share* of the estate is expressly allotted to each of them in the *Korán*, and particularly in the *fourth* chapter of it.

2. Next come they, who may be distinguished by the name of *residuaries*, because they take the *residue* after the *shares* have been duly distributed; and they are of two sorts, residuaries by *consanguinity* and residuaries for *special cause*, the former of whom are preferred in the order of succession; the latter are the masters, or mistresses of enfranchised slaves, or their *male* residuary heirs. If no *sharers* be living, the *residuaries* take the whole; but, if there be sharers by *consanguinity* and no residuaries, a farther portion of the inheritance *reverts* to them, though never to the widower or to the widow, while any heirs by blood are alive.

3. On failure of the two preceding classes, the distribution is made among those *next of kin*, who are neither *sharers* nor *residuaries*: they may be called the *distant kindred*.

4. Should none of the distant kindred be living and capable of inheriting, the estate goes (unless there be a widow or a widower, who is first entitled to a *share*) to him, who may be called the *successor by contract*; and of that succession it is necessary to give an example: if AMRU, a man of an unknown descent, say to ZAID, "Thou art my

* Page 517.

" kinsman,

“ kinsman, and shalt be my successor after my death, *paying for me* any fine and ransom, to which I may become liable,” and ZAID accept the condition, it is a valid contract by the *Arabian* law ; and, if ZAID also be a man whose descent is unknown, and make the same proposal to AMRU, who likewise accepts it, the contract is mutual and similar, and they are *successors by contract* reciprocally.

5. If no such agreement had been made, but if AMRU in his life time had acknowledged ZAID, a man of an unknown pedigree, to be his *brother* or his *uncle*, that is, to be related to him by his *father* or by his *grandfather*, though in truth he had no such relation, and the bare acknowledgement of AMRU cannot be admitted as a proof of it, yet, if AMRU die without retracting his declaration, ZAID is called *the acknowledged kinsman by a common ancestor*, and stands in the *fifth* class of successors, but takes the estate before the general devisee.

6. Last of all comes the person, to whom the deceased had left the whole of his property by a will duly made and proved ; for, though the law secures to his heirs of the five preceding classes *two thirds* of his estate, yet it so far respects his *dominion*, while he lived, over his own property, and his *will* as to the disposal of it after his decease, that it will rather give effect to an intention not strictly conformable to law (for the *Korán* seems to allow *pious bequests* only), than suffer his estate to escheat ; which must be the consequence of his dying without a representative. All such escheats to the sovereign go towards a fund for charitable uses ; and according to the system of ZAID, the son of THÁBIT, which has been shortly explained in a former publication, that fund, if it be *regularly established*, is entitled to the whole estate on failure of residuary heirs, without any *return* to the sharers, and to the entire exclusion of the *four* last classes ; but this doctrine seems quite exploded.

BEFORE

BEFORE we proceed to the law of *shares*, it is proper to take notice of the four impediments to succession ; which are slavery, homicide, difference of religion, and difference of country, or of allegiance ; the last of which disabilities relates only to such as are not *Muselmans*.

1. Slavery, by the *Mohammedan* law, is either *perfect* and *absolute*, as when the slave and all, that he can possess, are wholly at the disposal of his master, or *imperfect* and *privileged*, as when the master has promised the slave his freedom on his paying a certain sum of money by easy instalments, or, without any payment, after the death of the master : a female slave, who has borne a child to her master, is also *privileged* ; but in both sorts of slavery, as long as it continues, the slave can acquire no property, and consequently cannot inherit. The *Arabian* custom of allowing a slave to cultivate a piece of land, or set up a trade, on his own account, so that he may work out his manumission by prudence and industry, and by degrees pay the price of his freedom, may suggest an excellent mode of enfranchising the black slaves in our plantations, with great advantage to our country and without loss to their proprietors.

2. Homicide is either *with malice prepense* and punishable with *death*, or *without proof of malice*, and *expiable* by redeeming a *Muselman* slave, or by fasting two entire months, and by paying the price of blood ; or, thirdly, it is *accidental*, for which an expiation is necessary. *Malicious homicide*, or *murder* (for, by the best opinions, the *Arabian* law on this head nearly resembles our own) is committed, when a human creature is unjustly killed with a weapon, or any dangerous instrument likely to occasion death, as with a sharp stick or a large stone, or with fire, which has *the effect*, says KÁSİM, *of the most dangerous instrument*, and, by parity of reason, with *poison* or by *drowning* ; but those two modes of killing are not specified by him ; and there is a strange diversity of
opinion

opinion concerning them: killing *without proof of malice* is, when death ensues from a beating or blow with a flight wand, a thin whip, or a small pebble, or with any thing not ordinarily dangerous: *accidental death* is, when it was neither designed nor could have been prevented by ordinary care, as if AMRU were to shoot an arrow at a wild beast, and the arrow by accident were to kill ZAID, or if MÁZIN were to fall from his terrace upon ZUHAIR and kill him by his fall; in which cases the slayer would not be permitted to inherit *from the slain*. If, however, a man were to dig a pit, or fix a large stone, on the field of another, and the owner of the field were to be killed by falling at night into the pit, or running against the stone, the doer of the illegal act, which was the primary *occasion* (but not the *cause*) of the death, must pay the price of blood, but would not, it seems, be disabled from succeeding to the property of the deceased, whom he could not in strictness be said to have killed.

3. An unbeliever shall never be heir to a believer, nor conversely; but infidel subjects may inherit from infidels.

4. The difference between two states or countries consists in the difference of sovereigns, by whom protection is given to their respective subjects, and to whom allegiance is respectively due from them: this difference is particularly marked between a country governed by a *Mohammedan* power and a country ruled by a prince of *any other religion*; for they are always, virtually at least, in a state of warfare, the first being called by lawyers *the seat of peace*, and the second, *the seat of hostility*. A difference of country, therefore, which excludes from the right of inheriting, is either *actual* and *unqualified*, as when an *alien enemy* resides in the *seat of hostility*, or when an alien has chosen his domicil in the *seat of peace*, and pays the tribute exacted from infidels, in which case the *tributary* shall not be heir to the *alien enemy* dying abroad,

nor conversely, because each of them owed a separate allegiance; or the difference is *qualified**, as when a *fugitive* enemy seeks quarter, and obtains a temporary residence in the *seat of peace*, or when two alien enemies are fugitives from two different hostile countries: now, although the *tributary* and the *fugitive* actually live in the same kingdom, yet, since the fugitive continues a subject of the hostile power, he remains, *as it were*, under a different government, and there is no mutual right of succession between him and the tributary; nor, by similarity of reason, between *two fugitives*, who leave two distinct hostile governments, and obtain quarter for a time in the land of believers, but without any intention of making it their constant abode.

If none of these four incapacities preclude the heirs of AMRU from the legal succession to his estate, which we will suppose already sold and reduced to money of one denomination, the magistrate, or his officer, must proceed to the distribution of the *shares*; and, as they are a *moiety*, a *fourth*, an *eighth*, two *thirds*, one *third*, and a *sixth*, of the aggregate sum, it will be convenient at first to consider that sum as consisting of *twenty-four* equal parts, so that the shares will be, in whole numbers, *twelve*, *six*, *three*, *sixteen*, *eight*, and *four*.

THE *sharers* are *twelve* persons, *four* males and *eight* females; but, before we specify their respective allotments, it is necessary to premise, that a *grandfather* and a *grandmother*, according to the *Arabian* idiom, signify a *male*, and a *female*, *ancestor* in any degree; that a *true* grandfather is he, between whom and the deceased no female ancestor intervened; that a *false* grandfather is, where the paternal line of ascent was broken by the intervention of a female; and that a grandmother also is called *true*, when no *false grandfather* intervened between her and the deceased: in short, the only *true line of ancestry*, according to the *Arabs*,

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is an uninterrupted succession of *paternal* forefathers. The *male* sharers then are the *father*, the *true grandfather*, the *brother by the same mother* only, and the *widower*: the females are the *widow*, the *daughter*, the *female issue of the son*, the *sister of the whole blood*, the *sister by the same father* only, the *sister by the same mother* only, the *mother* herself, and the *true grandmother*.

We begin with the *males* in the order of the shares before enumerated; and, 1. The father of AMRU or HINDA takes* a *sixth* absolutely, though a *son* of the deceased be living, or any male descendant, who claims wholly through males; but, if there be no such male descendant, he becomes a *residuary heir*; and, if there be only a *daughter* of the deceased, or a *female* descendant from the son, he first has his legal share, or a *sixth*, and, when her share also has been allotted, he claims the residue. 2. The true grandfather is excluded from any share by the living father, *through whom* alone the grandfather bore a relation to the deceased; and, although a similar reason might afterwards be applied to the mother, and operate to the exclusion of her children, yet the father has the additional strength of a double title, both as a *sharer* and as a *residuary*: but, if the father also be dead, *his* father, or true paternal ancestor, has exactly the same interest, except in four cases, which will be presently mentioned. 3. A single half-brother, by the same mother only, takes a *sixth*, and two or more such half-brothers, a *third*; provided that the deceased left neither children, nor male issue of a son, nor a father, nor a true grandfather; by any of whom the brothers by the same mother are excluded; and this article brings us necessarily to one class of *female* sharers; for, *in this instance*, there is no distinction of sex; both brothers *and sisters* by the same mother only having an equal right and an equal share in the distribution. 4. A

* Page 519.

moiety of HINDA's estate, if she die without children, or the issue of a deceased son, goes to her widower AMRU, who, if she leave such issue, has no more than a *fourth*.

As examples of the father's rights, let us suppose AMRU to have died worth two thousand four hundred pieces of gold; leaving his father ZAID, and either a son or a son's son, OMAR: in this case the *four hundred* pieces are the share of ZAID, and OMAR takes the remaining two thousand; but, if AMRU leave only his father ZAID and either a daughter, or son's daughter, LAILA, the father is first entitled to the *four hundred* pieces, or *sixth* part; and, after LAILA has received *twelve* hundred, or a moiety of the estate (which, as we shall see, is her share in this case), he takes, as *residuary*, the *eight* hundred pieces, which remains; so that the property of AMRU is equally divided between them. Should no relation be left but ZAID the father, and LEBID the brother, of the deceased, LEBID is excluded; and the whole estate goes to ZAID. If, in the three preceding cases, the paternal grandfather SÁLIM had been left instead of ZAID, his rights would have been precisely the same; and the only difference between ZAID and SÁLIM will appear from the four following examples. 1. The paternal grandmother would be excluded by ZAID her son, but not by his father, her husband, SÁLIM. 2. If AMRU or HINDA leave a father ZAID, a mother SOLMA, and a widow ZAINEB, or widower HÁRETH, the mother takes a *third* part of what remains after ZAINEB or HÁRETH has received the legal share; but, if SÁLIM be substituted for ZAID, she would have a right to a third of the *whole assets*, according to the prevailing opinion, although AB'U YÚSUF thought her entitled, even in that case, to no more than a third of *the remainder*. 3. The brothers of the whole blood, and those by the same father only, are excluded from the inheritance by ZAID the father, but not by the grandfather SÁLIM,

SÁLIM, as the best lawyers agree, dissenting on this point from their master ABÚ HANÍFAH. 4. If AMRU had manumitted his slave YÁS-MÍN, and died, leaving his father ZAID and a son OMAR, a *sixth* part of the right of succession to YÁSMÍN would have vested, according to ABÚ YÚSUF, in ZAID, but, if the paternal grandfather SÁLIM had been left instead of the father, the whole interest would have vested in the son: in this case that illustrious lawyer ultimately dissented from his master and from his fellow-student MUHAMMED, who were both very justly of opinion, that, whether ZAID or SÁLIM were alive on the death of the manumittor, the whole right of succession to the manumittee vested in OMAR.

Let us proceed to the shares of the *females*; and 1. If AMRU die without children, and without any issue of a deceased son, his widow HINDA must receive a *fourth* of his assets; but her share is an *eighth* only*, if any such issue be living: should he leave more widows than one, they take equal parts of such *fourth* or *eighth*; so that the legal share of the widower is always in a double ratio to that of the widow or widows: as, if HINDA die worth *twenty-four* thousand zecchins, her surviving husband AMRU must be entitled either to *twelve* or to *six* thousand; and if AMRU die with the same estate, his widow HINDA must have either *six* or *three* thousand for her sole share; or, if ZAINEB and ABLA had also been legally married to AMRU, the three widows must receive either *two* or *one* thousand zecchins each, as the case may happen. 2. *One daughter* takes a moiety, and *two or more* daughters have *two thirds*, of their father's estate; but, if the deceased left a son, the rule, expressed in the *Koràn*, is this: "to one male give the portion of two females;" and the daughters in that case are not properly *sharers*, but *residuary heirs* with the son, their part of the inheritance being always in a subduple ratio to his part. Thus, if AMRU die worth *twenty-four* thousand pieces of gold, his only child FATIMA takes twelve

* Page 520.

thousand as her *share*; but, if she have three sisters, AZZA, LATÍFA, and ZUBAIDA, two thirds of the assets, or *sixteen* thousand pieces, are equally divided between the four girls; and, if there be a son OMAR, he must receive, in the first case, *sixteen* thousand, while FÁTIMA has *eight*; and, in the second, *eight* thousand, while she and her sisters take each *four* thousand, pieces. 3. If OMAR had died before his father, leaving female issue, and his father had then died without any daughter of his own, the daughters of OMAR would have had precisely the same shares, to which those of AMRU himself would have been entitled; but, had FÁTIMA been living, she would have taken *half* the estate, or *twelve* thousand pieces of gold, and a *sixth* only, or *four* thousand, the complement of *two thirds* or *sixteen* thousand, would have been equally distributed among her nieces. Had FÁTIMA and AZZA been at that time alive, they would have taken their legal share, to the exclusion of their brother's *female* issue, unless the right of that issue had been sustained by a *male* in an *equal*, or a *lower* degree, who would have made them *residuaries*, "the *male* taking, by the rule, the portion of "females;" but a *male* in a *higher* degree would not have given them that advantage; and, if OMAR himself had survived, his daughters would have been wholly excluded. The *six* cases, therefore, or different situations, of the female issue of OMAR may be thus recapitulated: 1. A single female takes a *moiety*. 2. Two or more have *two thirds*. 3. A *male* in the same, or a lower, degree than themselves, gives them a *residuary* right in a subduple ratio to his own. 4. With a daughter of AMRU, who is entitled to *half*, they would have only a *sixth*, to make up the regular share of the female issue. 5. They are excluded, if AMRU left more daughters than one, but no male issue in any equal, or a *lower*, degree. 6. A son also of AMRU wholly excludes them. In the three first cases, their legal claims correspond with those of daughters: but in the three last their rights are weaker, because they are in a remoter degree from the deceased.

The

The pedigree exhibited in the text* is called by the *Arabs* the *tashbib*, because, in their opinion, it sharpens the understanding, and captivates the fancy as much as the *composition of an elegant love-poem*, which the word literally signifies; but, without adopting so wild a metaphor, we may truly say, that it is very perspicuous, and that no comment, after what has been premised, could render it clearer. An example, however, will show more distinctly than an abstract rule, in what manner an estate is divisible, when a *male* descendant gives a *residuary* title to a *female* in the same, or in a *higher*, degree. Call the only surviving male descendant OMAR, and suppose him to be the brother of AMINA, who stands lowest in the first set of females: here the highest female in that set must receive a *moiety* of the assets; the next below her takes a *sixth* together with the highest of the second set, as the complement of *two thirds*; and the *residue* must be divided into *five* portions, of which OMAR claims *two* and each of the females in the same degree, one; but the three females below them are excluded. If OMAR be the brother of ZARIFA, whom we suppose the lowest of the middle set, the remaining *third* of the estate must be distributed in *sevenths*, because there are *five* females, *three* in a higher, and *two* in an equal, degree with OMAR, who must always have a double portion; and, if he be the brother of UNAIZA, the lowest female of the *third* set (who, on the former supposition, would have been excluded), there will be *six* female *residuaries* entitled to portions with OMAR, but in a subduple ratio; so that, if AMRU died worth *twenty-four* thousand ducats, the daughter of his son takes *twelve* thousand of them; the two daughters of his sons' sons receive each *two* thousand; and, the residue being *eight*, OMAR is entitled also to *two* thousand ducats, while UNAIZA and the *five* women, who remain, have each *one* thousand, which they owe to the fortunate existence of OMAR. 4.† The rights of sisters by the same

* Page 520.

† Page 521.

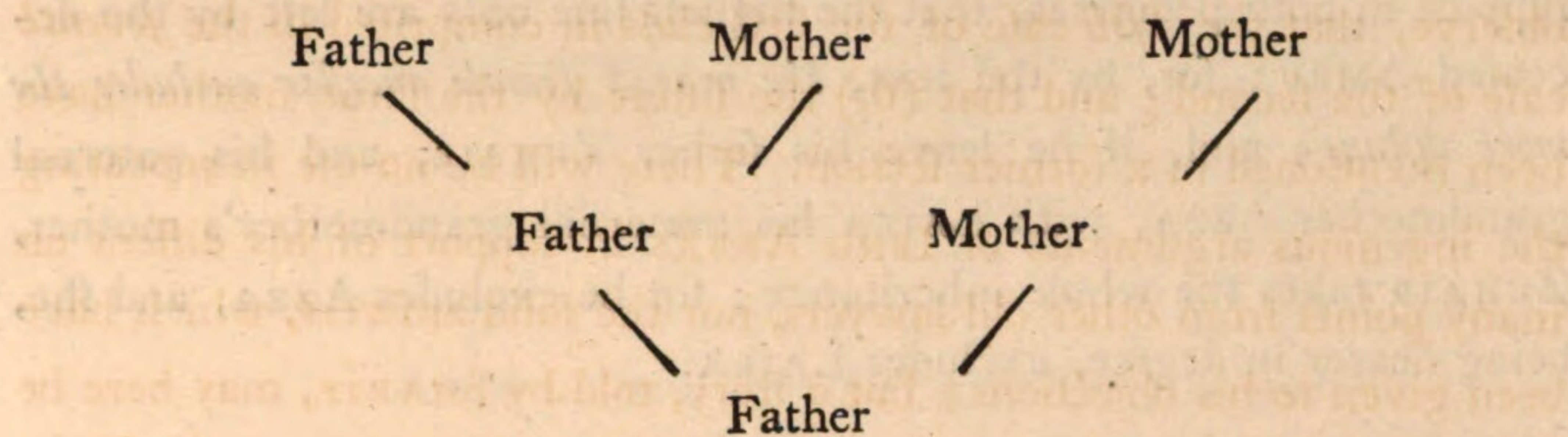
father and mother, and (5.) those of sisters by the same father only, are explained in the text with sufficient clearness, but it is proper to observe, that the *fifth* case of the first class is comprised in the *seventh* case of the second; and that (6.) the sisters by the same mother have been mentioned in a former section. There will be no use in repeating the ingenious arguments of IBNU ABBÁS in support of his dissent on many points from other old lawyers, nor the solid answers, which have been given to his objections; but a story, told by SHARÍF, may here be repeated, because it conveys an idea of the traditionary *Arabian* law, and shows from what sources our excellent author derived his doctrine:

‘ HUDHAIL used to relate, that ABÚ MÚSA, being consulted on the
‘ distribution of an heritage among a *daughter*, a son’s *daughter*, and a
‘ *sister*, answered, *the first must have a moiety; the second, a sixth; and*
‘ *the third, what remains*; but “Consult IBNU MASÚUD, added he,
“ and apprise me of his answer:” when IBNU MASÚUD, was consulted,
‘ he said, that he was present, when MUHAMMED himself gave the
‘ same decision;’ and, when that answer was reported to ABU MUSA,
he said, “you must put no questions to me, as long as that illustrious
“ lawyer remains with you.” 7.* Although the different rights of the
mother in different cases be very clearly explained, yet her title to *a third*
of the residue may be illustrated by two examples: first, if ADHRA leave
only her husband WÁMIK, her mother SÔÁDA, and her father MÁZIN,
half of her estate goes to WÁMIK, a third of the other half, or a sixth of
the whole, to SÔÁDA, and the remainder to MÁZIN; but, secondly, if
WÁMIK leave only his wife ADHRA, his mother ZAINEB and his fa-
ther LEBÍD, the widow takes a quarter of his property, while ZAINEB
has a third, and LEBÍD two thirds, of the remaining three quarters.
8. In giving an example of the division between two great grand-
mothers†, we may anticipate in some degree the arithmetical part of

* Page 522.

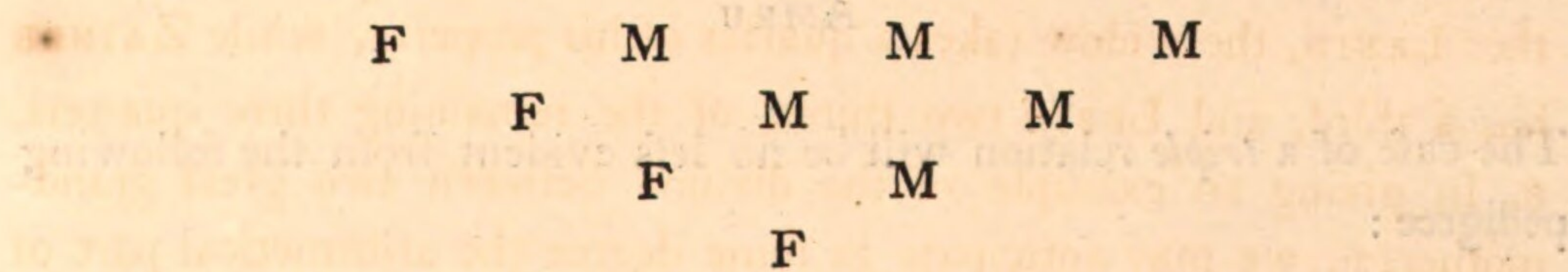
† Page 523.

the work, which will be found extremely clear and ingenious. The pedigree exhibited by SHARÍF is in this form:



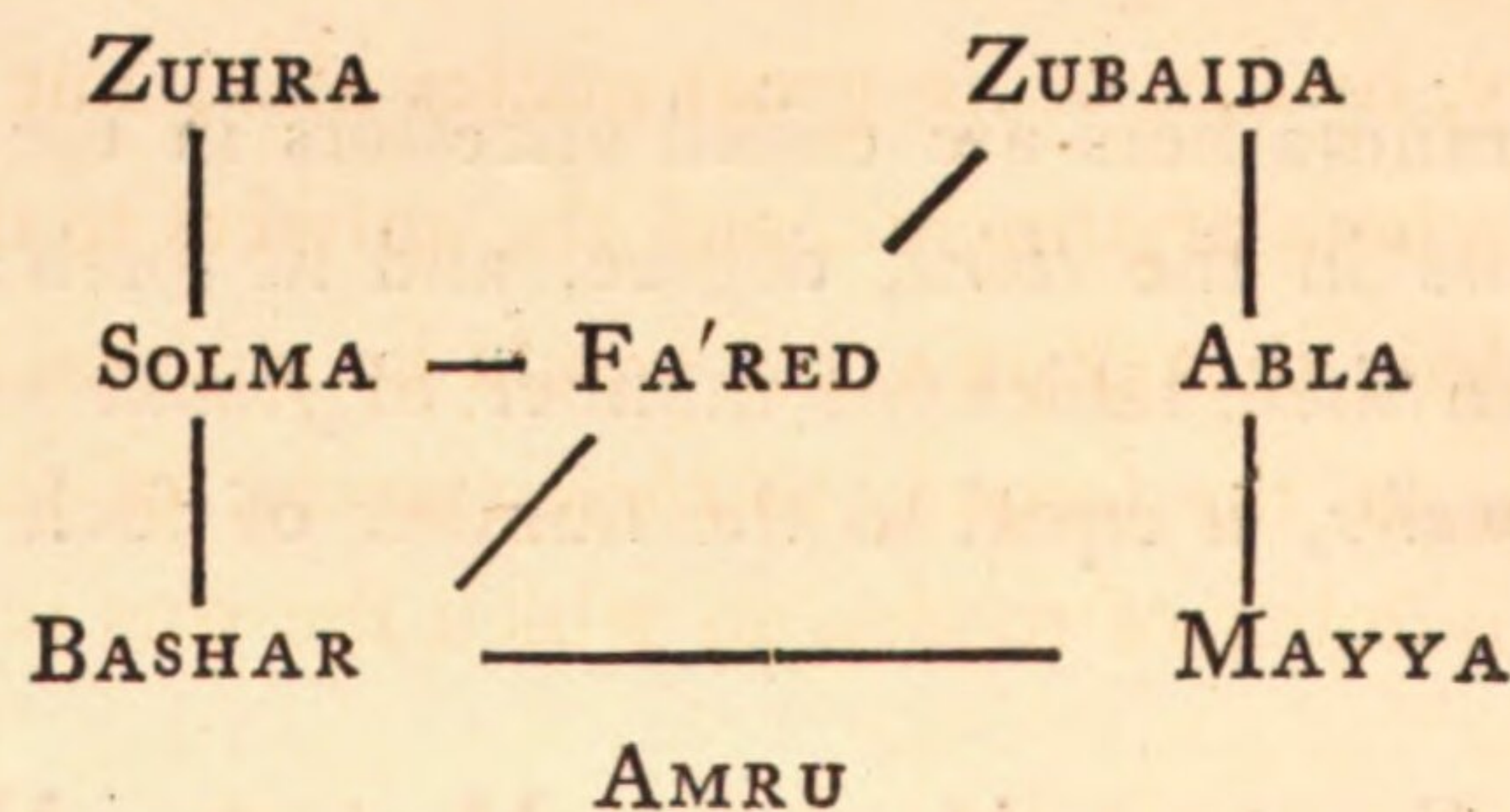
Now the paternal grandmother's mother, and the mother of the paternal grandfather, are together entitled to a sixth, and the paternal grandfather's father to the residue, of the estate, which ought by the general rule, to be divided into *six* parts, because *six* is the denominator of the share; but, to avoid a fraction, we must observe the proportion of *one*, or the sixth part, to *two*, or the number of persons entitled to it; and, since *one* and *two* are *prime* to each other, we must multiply *two* into *six*, and the product is the number of parts into which the property must be divided; so that of *twelve* cows or horses the great grandfather will have *ten*, and each of the great grandmothers, *one*.

The great grandfathers are called ancestors in the *second*, and their fathers, ancestors in the *third*, degree, and so forth; and it must be remarked that in these tables the number of *female* ancestors, who inherit with the *males*, is equal to the number of such degrees: thus in the following,



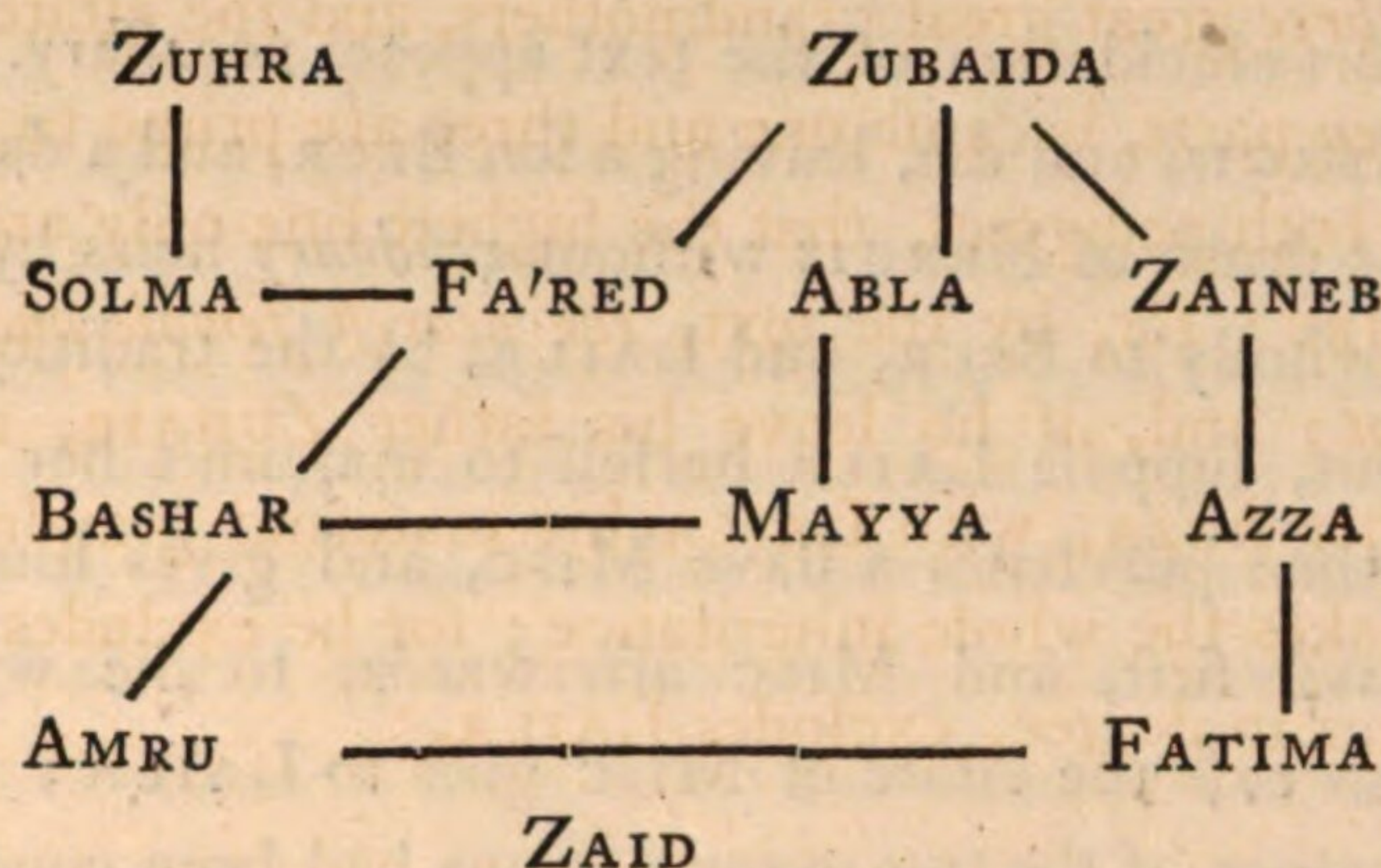
there are *three* great great grandmothers, and the estate must be divided into *eighteen* parts, because one and three are prime to each other. We suppose in both pedigrees, that the highest line only are left by the deceased AMRU; for, by the text, *the nearest female ancestor excludes the more distant*; and, if he leave his father ZUHAIR, and his paternal grandmother AZZA, with LAILA his maternal grandmother's mother, ZUHAIR takes the whole inheritance; for he excludes AZZA, and she, being nearer in degree, excludes LAILA.

Let us conclude the subject with a case put by SHARÍF in illustration of the pedigree in the text: ZUBAIDA gave her daughter's daughter MAYYA in marriage to her son's son BASHAR, and the young pair had a son AMRU, who acquired an estate, and died: now ZUBAIDA was both paternal and maternal great grandmother of AMRU, and had, therefore, a *double* relation to him; but another woman, named ZUHRA, had married her daughter SOLMA to FÁRED, who was the son of ZUBAIDA, brother of ABLA, and father of BASHAR; so that ZUHRA was AMRU's paternal grandmother's mother, and had only a single relation; as it will appear by the following arrangement of the family:



The case of a *triple* relation will be no less evident from the following pedigree:

ZUHRA



For, if AMRU, whom in the former case we supposed to be dead without issue, had lived and married his cousin FA'TIMA, by whom he had a son ZAID, who died leaving property, ZUBAIDA would have a *triple* relation to the deceased; first, as his maternal great grandmother's mother; secondly, as his paternal grandmother's grandmother; and thirdly, as the mother of his paternal great grandfather; but ZUHRA has only a *single* relation to ZAID, as grandmother of his paternal grandfather BASHAR.

In both these cases a *sixth* of the assets is divided *equally* between the *two* female ancestors, by the opinion of ABU YUSUF, and, according to one authority, by that of his great master also; but his fellow-student MUHAMMED (whose arguments, and the answers to them, it is needless to add) contended, that ZUBAIDA would be entitled in the first case to *two thirds*, and, in the second, to *three fourths*, of that *sixth* part, according to the number of modes, in which she was related to AMRU or ZAID.

No comment could add perspicuity to the chapter on *residuary heirs**, until we come to the cases of inheritance from enfranchised slaves†,

* Page 523.

† Page 525.

where

where a short elucidation of the text appears necessary. If AMRU enfranchise NERGIS, and die, leaving a son BECR, and a daughter LAILA; then, on the death of NERGIS without *residuary* heirs by blood, his property goes wholly to BECR, and LAILA, by the traditionary rule, takes nothing; but, suppose LAILA herself to manumit her black slave SÚSEN, who then purchases a slave MISC, and gives him freedom; and suppose SÚSEN first, and MISC afterwards, to die without residuary heirs, in this case the estate of MISC goes to LAILA; nor would there be any difference, if the two manumissions had been conditioned to pay a certain sum of money at a certain time. The case of a manumission promised on the death of the mistress, has rather more difficulty; but an example will make it clear: LAILA promises NERGIS, that, on her death, he shall be free; but, by the persuasion of a *Christian* friend, she renounces her faith, and seeks refuge in a hostile country: now *a believer cannot be the slave of an infidel*; and the *Mohammedan* judge pronounces accordingly, that NERGIS has gained his freedom; but LAILA, repenting of her apostasy, returns to her native country and her former belief; after which NERGIS dies without heirs: LAILA succeeds as residuary to her promisee, as she would have succeeded to a slave of NERGIS purchased after the decision of the judge, if a similar promise of manumission at his death had been made by the master; and if that second promisee had died without heirs after her repentance and return. Should CÁFÚR, a slave of LAILA, marry, with her consent, MERJÁNA, the freedwoman of AMRU, the son of that couple would be born free, because, in respect of freedom or slavery, *a child has the condition of its mother*, and he bears a relation to AMRU her manumittor; but, should LAILA give CÁFÚR his freedom, he would *draw* that relation from AMRU, through himself, to LAILA, so that she would succeed to the son of CÁFÚR and MERJÁNA, if he died after his parents and without other heirs of the first or second class: the case would be
similar

similar, if CĀFŪR being enfranchised, had bought a slave MISC, and given him in marriage to the freedwoman of ZAID; for, if the issue of that marriage had been a son, born free, but with a relation to ZAID, and if CĀFŪR had then given MISC his liberty, he would have *drawn* from ZAID the relation of his freedman's child, and transferred it, through himself, to LAILA his former mistress. This doctrine of a *relation* (as the *Arabs* call it) first *vested* through the mother and then *devested* through the father, is founded on a decision of OTHMĀN in the case of ZUBAIR and RAFĪ.

We had occasion before, to mention the difference (according to ABU YUSUF) between the *father*, and the *grandfather*, of the manumitter in regard to their succession, with his *son*, to the property of a freedman; nor can any thing of moment be added here; but it will be proper to explain at large the concluding case in the chapter of *residuarys*, which proves, that the relation of enfranchisement may arise by the *act of law* as well as by the *act of the party*. Let it be premised, that marriage is prohibited between kindred of two classes; first, between all those in ascending or descending lines of consanguinity, who are called *near*; secondly, between brothers and sisters, and their issue, or between nephews or nieces and aunts or uncles, paternal or maternal, who are called *intermediate*; but, between those of the third, or *distant*, class, as the first or other cousins, there is no prohibition: now, if AMRU or HINDA purchase a kinswoman or kinsman within either of the *prohibited* degrees, the slave becomes instantly free, and a right of succession vests in the purchaser, though the mastership began and ended in one moment. Call the three daughters of HĀRETH a slave, ZUBAIDA, SĀFIYA, AMINA, who derived freedom from their mother, and two of whom, the first and third, purchase HĀRETH for fifty pieces of gold: he becomes in that instant free; and, if he die leaving property, two thirds of it go to his three daughters as their legal shares,
and

and the residue belongs to the two, who procured him liberty; three fifths of it to ZUBAIDA, who contributed her *thirty*, and two fifths to AMINA, who added her *twenty*, pieces. To arrange the distribution without fractions, begin with *three*, the denominator of the legal share: now *two*, its numerator, is *prime* to the number of sharers; and *one* is prime also to *five*, the number of residuary portions; but *thirty* and *twenty* are *composed* to one another, since *ten* measures thirty by *three* and twenty by *two*; and *five*, the sum of those tenths, may be considered as standing in the place of the number of residuaries: again, *five* and *three* are prime to each other, and their product is *fifteen*, which, being multiplied into *three*, the first-mentioned denominator, produces *forty-five*, the number of equal parcels, into which HARETH's estate must be divided; so that *thirty*, or *two thirds*, may be distributed in *tens* to the three daughters, and *fifteen* or the residue, in *threes* to the *two*, who redeemed their father; ZUBAIDA taking in all *nineteen*, AMINA *sixteen*, and SÁFIYA, only *ten*, portions of the inheritance. This is the calculation of SHARÍF, and the grounds of it will presently appear; but the operation might have been shortened thus: multiply the denominator of the *legal share* into the number of sharers, and then multiply the product into the denominator of the *residuary portions*.

The chapter of *exclusion** is very perspicuous; but the case of an *unbelieving* heir having really occurred in the time of ALI, we may insert it as a monument of early *Arabian* jurisprudence. SOLMA had embraced the new faith, and died, leaving her husband, and two brothers by the same mother, who were all three believers, with a *son*, who continued an infidel: on a dispute concerning the inheritance, ALI and ZAID gave a moiety to the widower, considering the son as actually *dead*, a third to the half-brothers, and the rest to such of the

* Page 525.

residuaries as believed in the *Korán*; while IBNU'L MASUÚD insisted, that the son was *dead* as to the right of inheriting, but alive as to the power of excluding, and thought that he drove the widower from *a moiety* to a *fourth part* only of SOLMA's estate; but the former opinion has prevailed, and in a curious book (for which there must have been abundant materials) entitled *The Diffensions of the Learned*, it is admitted, that, by universal assent, if AMRU leave a father, who is either a slave or an infidel, and a paternal grandfather, who is both free and a believer, the father is considered as *dead in law* to all purposes, and the grandfather is heir to AMRU.

We come now to the *Arabian* method of ascertaining the smallest number of *parcels*, into which an estate can be divided, so as to avoid fractions in the legal distribution of it: that *number* we call the *denominator*, or divisor, of the *estate*, though the *Arabick* word mean literally *the place of coming out*; and the problem is easily solved by the following rules: if the two numbers in question be prime, multiply one of them into the other; if they be *composit* to each other, multiply the *measure* of one into the second, and the product will be the number sought. The whole section* is as clear as it could be made in a verbal translation; and it would be superfluous to add examples of all the cases, which must occur to every one, who has attentively perused the preceding parts of the work.

A case, which arose in the reign of OMAR, has given occasion to some debate†: LAILA died, leaving only AMRU her husband, HINDA her mother, and ABLA her sister of the whole blood. Now the husband and sister were each entitled to a moiety, and the mother, to a third, of LAILA's property, which, by the rule then established, could

* Page 526.

† Page 527.

be divided into *six* parts only; but ABBAS, a companion of MUHAMMED being consulted by the Caliph, proposed, that the regular divisor should be so *increased*, that of *eight* parts AMRU and ABLA might each take *three*, and HINDA *two*. The son of ABBAS, whose opinions were always rather ingenious than solid, was present at the decision; but, fearing the bad temper of the Caliph, suppressed at that time his own sentiments: he thought, that the *sister*, having (as we have seen) a weaker right, should bear the loss, because, *where different rights concur, the weakest invariably yields*; and he said, that, if an arithmetician could number the sands, yet he could never make *two halves* and a *third* equal to a whole; but his opinion has never been adopted, because, although the *sister* may in some cases be removed into a distinct class of heirs, yet, with a husband and a mother of the deceased, her share is fixed by positive law, and she cannot by any means be deprived of it; so that the shares of all the claimants must be diminished in *exact proportion*; for instance, if the property had been *twenty-four* pieces of gold, the mother would claim *eight*, and each of the other heirs, *twelve*; now those claims cannot all be satisfied, but eight is to twelve, as *six* to *nine*, which will be the respective shares, according to the decision of ABBAS.

Examples of the divisor *six* increased to *seven* and to *nine*, or of *twelve* to *thirteen*, *fifteen*, and *seventeen*, would appear equally ingenious, but would swell this commentary to an immoderate size: there are two decisions, however, deserving particular notice, because they were made in real causes, and have been universally approved. ZUBAIDA left her husband ADNAN, with *two sisters of the whole blood*, *two sisters by the same mother only*, and the *mother* herself; whose legal shares, in order as they are mentioned, were a *moiety*, *two thirds*, a *third*, and a *sixth*: it was impossible, therefore, to distribute them out of *thirty* pieces, for instance, divided into *six* equal parcels; but the judge, named SHURAH, divided the whole estate into *ten* parcels, each consisting

fixing of *three* pieces, and allotted them to the claimants in the proportion of their shares; that is, to the husband, *three* parcels, to the sisters of the whole blood, *four*; to the half-sisters, *two*; and to the mother, *one*; assuring ADNÁN, who at first complained of the judgement, that OMAR had made a similar decision; and this case acquired celebrity among the *Arabs* by the name of SHURAIHIYYA. The next case, which was answered at once by ALI, while he was haranguing the people in the *mimbar*, or pulpit, at CÚFA, is fully stated in the text: the share of the widow was, regularly, an *eighth*; that of the daughters, *two thirds*; and that of each parent, a *sixth*, all which cannot be distributed out of *twenty-four* parcels; but ALI pronounced, that the property of the deceased should be divided into *twenty-seven* equal parts, of which the widow should have *three*; the daughters, *sixteen*; and the two parents, *eight*. It is recorded, that, when the person, who consulted ALI, was much dissatisfied with his answer, and asked *whether the widow was not legally entitled to an eighth*, the Caliph said rapidly, "it is become a *ninth*," and proceeded in his harangue with his usual eloquence.

The arithmetical part of the *Sirájiyya** is very simple, and may be found in the first pages of all our elementary books; but the difference of the *Arabian* idiom occasions a little obscurity. The chapter on primes and measures is founded on a simple analysis: when two numbers are compared, they are either equal or unequal; if unequal, either the smaller is an aliquot part of the greater, or they have a common measure, which must either be *unit* alone, or some *number*, which the *Arabs* define *a multitude composed of units*. When the greatest common measure is found by the rule, they consider the two numbers as *agreeing* in a fraction, which has that common measure for its denominator and unit for its numerator; but the nature of the *Arabick* language makes

* Page 528.

it impossible to express in a single word the fractions less than a *tenth*: thus *twenty-seven* and *twenty-four* agree, as they express it, in a third; and a *third* of each number is called its *wafk*, or measure, as *nine* of *twenty-seven*, and *eight* of *twenty-four*. After this explanation of the word, which is translated *the measure*, there will be no difficulty in the following cases.

I. * AMRU leaves only his father and mother and ten daughters: now, by the rule, his estate should be divided into *six* parts, because the share of each parent is a *sixth*, and that of all the daughters *two thirds*; but *four* parts cannot be distributed, without a fraction, among *ten* persons; for which reason we must multiply *five*, which is the measure of *ten*, into *six*, which is the first number of parcels, and the product *thirty* is the number of lots, into which the property of AMRU must in fact be divided; each of his parents taking *five* lots, and each of his daughters *two*.

II. HINDA leaves her husband, both her parents, and six daughters; whose legal shares are a *fourth*, *two sixths*, and *two thirds*, of the inheritance: now the regular denominator of the lots would be *twelve*, but it is raised to *fifteen*; and since *eight* parcels cannot be distributed equally among *six* daughters, the *measure* of six, or *three*, is multiplied by fifteen; so that of *forty-five* lots *nine* may go to the husband, *twelve* to the parents, and *twenty-four* to the daughters, in exact proportion to their first distributive shares.

It will be very easy to apply the remaining rules to all the other examples given by SIRAJ'UDDIN†; but since, in the two last cases, which are not likely to occur, the inheritance must be divided into 4320 and 5040 parcels, the calculation, after the *Arabian* mode, in

* Page 529.

† Page 529.

words at length, would be insufferably tedious, and the reader may make it in figures with little or no trouble. The latter of those two cases * is, however, subjoined; because it will fully explain the section, in which no examples are given. S^AAD leaves *two* wives, *six* female ancestors, capable of inheriting together, *ten* daughters, and *seven* paternal uncles, whose shares of *twenty-four* (the *root*, as they call it, of this case) are *three*, *four*, *sixteen*, and *one*; for the uncles can only take what the others leave. Now by observing the primes and measures, and working according to the rule, we come to 210, which must be multiplied by *twenty-four*, and the product gives the smallest number of parcels, into which S^AAD's estate can be duly divided: the products of that multiplicand (210) by 3, 4, 16, give 630, 840, 3360, which are the allotments of the *wives*, *female ancestors*, and *daughters*; and the allotment of each sharer appears at once from the following proportions:

<i>Persons.</i>		<i>First Shares.</i>		MULTIPLICAND.		SHARES OF EACH.
2	:	3	::	210	:	531.
6	:	4	::	210	:	140.
10	:	16	::	210	:	336.

The last act of the *Muselman* judge is to make an actual division of the state†; and we will suppose that LAILA, in the case answered by ABBÁS, had left ZAINEB and ABLA, two sisters of the whole blood, with AMRU, her husband, and HINDA, her mother; and that her property amounted only to *twenty-five* gold *mohrs*: now the *root* of the case is increased, as we have seen, from *six* to *eight*, which is prime to twenty-five; and the products of *two*, the share of each sister, of *three*, the share of the husband, and of *one*, the share of the mother, multiplied

* Page 530.

† Page 331.

by the number of gold *mohrs*, are 50, 75, and 25, which, divided by *eight*, give the following shares: to each sister, 6 *mohrs*, 4 *rupees*; to AMRU, 9 *m.* 6 *r.*; to HINDA, 3 *m.* 2 *r.* Had LAILA's estate been *fifty* gold *mohrs*, the distribution would have been thus:

	M.	R.
ZAINEB,	12,	8.
ABLA,	12,	8.
AMRU,	18,	12.
HINDA,	6,	4.

It seems needless to give examples of the simple rules for ascertaining the dividends of each *class*; but the passage concerning creditors, at the close of the chapter, is made obscure by extreme brevity, and requires a short illustration. Suppose the assets of AMRU to be *nine* pieces of gold; his debts, *five* pieces to SAAD, and *ten* to AHMED; here the aggregate of the debts, *fifteen*, is composited to *nine*, and their *measures* are *five*, and *three*; so that, by the rule before-mentioned of distribution among *heirs*, AHMED will receive *six*, and SAAD, *three* pieces; but, had the debtor left *thirteen*, which would have been prime to the amount of both debts, then *fifteen*, standing in the place of the *verification*, as they call it, must be the divisor of the several products, arising from the multiplication of *ten* and *five* into thirteen, and the quotients $8\frac{2}{3}$ and $4\frac{1}{3}$ will be the respective dividends of AHMED and SAAD.

The practice of *subtraction** arose from the case of ABDUR'RAHMAN and his four wives, decided in the reign of OTHMAN'; and the section concerning it will be made clear by a fuller explanation of the example in the text. We have seen, that the widower is entitled to a *moiety*,

* Page 531.

the

the mother to a *third*, and the uncle, to the *residue*; so that, if LAILA's estate be divided into *six* parcels, the distribution may be made without a fraction: but if the widower agree to keep the *mahr*, or nuptial present to his wife, which he had never actually paid, instead of his *three sixths* of the whole, the remainder, after deducting the *mahr*, must be divided into *three* parts, of which the mother will have *two*, and the uncle, *one*. So, if the mother agree to take a jewel, or other specifick thing, in lieu of her *two sixths*; or the uncle, a slave or a carriage, in the place of his *sixth* part, the remainder, which, would be *four* parts in the first case, and *five* in the second, must go to the other claimants in proportion to their shares. Again; if AMRU leave his mother FÁTIMA, two sisters by the same mother, LATÍFA and SOLMA, and the son of a paternal uncle, SELÍM; here also the inheritance must be divided, by the rule, into *six* parts: now, if the deceased left a female slave and thirty gold *mohrs*, and, if SOLMA consented to keep the slave instead of her legal share, or a *sixth*, the remainder of the property must then be divided into *five* parcels, six gold *mohrs* in *each*, of which FÁTIMA and LATÍFA must receive each *one* parcel, and SELÍM, the *three* parcels, which remain. It is obvious, that, if the first calculation were made, in the preceding cases, on a supposition, that the taker of the specifick thing was dead or incapable of inheriting, there would be either a *defect* or an *excess* in some of the allotments to the other claimants.

There is no difficulty in the chapter on the *return**, except what arises from the *Arabick* idiom, to which the reader is probably by this time habituated; but it is necessary to remark, that, although, by the letter of the *Korán* and the strict rules of law, no *return* can be made to the *widower* or *widow*, yet an equitable practice has prevailed, in

* Page 532, 533.

modern times, of *returning* to them *on failure of sharers by blood and of distant kindred*. The last case in the chapter can rarely occur ; and the result of the calculation (which fills ten pages in the *Persian* work of *Maulavi KASIM*) is, that, of 1440 parcels, the *four* widows take $(36 \times 5 =)$ 180 ; the *nine* daughters $(36 \times 28 =)$ 1008 ; and the *six* female ancestors $(36 \times 7 =)$ 252 ; so that 45 parts go to each *widow*, 112 to each *daughter*, and 42 to each *female ancestor*.

The rights of the *paternal grandfather* have been more disputed than any other point of *Arabian* law ; no fewer than *seventy* contradictory decisions having been made concerning them in the reign of OMAR ; but the dispute is now settled among the *Sunnis* according to the opinion of ABU HANIFA ; and the chapter on *division* seems to have been inserted merely from respect to ABU YUSUF and MUHAMMED, who dissented on this point from their master* : it is one of the clearest chapters in the *Sirajiyah*, and will be useful to us, if the question should arise in a family of *Shiâhs*, who follow, no doubt, the opinions of ALI and ZAID. The case called *acdariyya*, which was decided by the son of THABIT, and has acquired such celebrity in *Irâk*, that it is distinguished among the lawyers of that country by the epithet of *algharrâ*, or the *luminous*, is a perspicuous example of the grandfather's division in a *double* ratio with the sister : the conjecture, formerly hazarded by myself, that it was named *acdariyya*, because the rules of inheritance are *disturbed* by it in favour of the grandfather, had occurred, I see, to some *Arabs*, and is mentioned by SHARIF without disapprobation.

It will be necessary to illustrate by examples the chapter on *succession to vested hereditary interests*† : and, first, we may suppose, that ZAID had two wives, named ZAINEB and LATIFA, and that ZAINEB died

* Page 534, 535.

† Page 536.

possessed

possessed of separate property, leaving her husband, her mother ZUHRA, and HINDA, her daughter by a former husband: now the legal shares, in order as the sharers are named, would be a *fourth*, a *sixth*, and a *moiety*; so that regularly the estate should be divided into *twelve* parts, but it is here divided into *four*, because there must be a *return* to ZUHRA and HINDA, in the proportion of their shares, that is as *one* to *three*; but, when ZAID has taken his *fourth*, the *three* fourths, which remain, cannot be distributed in that proportion; and, since *three* and *four* are prime to each other, we therefore multiply *four*, considered as the number of persons entitled to a return, into *four*, the denominator of the husband's *share*, and the square number answers the purpose of integral distribution; for of *sixteen* parcels ZAID will be entitled to *four*, ZUHRA to *three*, and HINDA to *nine*.

Suppose next, that ZAID himself dies, before any distribution actually made, leaving only LATÍFA before-mentioned, his mother BASÍRA, and his father ÁBID: here *four* parts of the former inheritance having vested in him, the distribution is easy; *one* part going to LATÍFA, as her *fourth*, one also to BASÍRA, as her *third of the residue*, and *two* parts to ÁBID; in exact proportion to their several claims on his own estate.

Thirdly, suppose HINDA to die before any actual distribution, leaving the before-named ZUHRA, her grandmother, ZUBAIDA her daughter, and two sons, HÁTIF and BASHAR: now she had a *vested interest* in *nine* parts out of the *sixteen*, and, her own estate being divisible into *six* parts, we observe, that *nine* and *six* are composit to each other, or agree, as the *Arabian* phrase is, *in a third*; so that a third of *six*, or *two*, must be multiplied into *sixteen*, and the product *thirty-two* will be the denominator for both cases; for of *thirty-two* parts *nine* will vest in ZUHRA (*six* as mother to ZAINEB, and *three* as grandmother to HINDA), *twelve* in the two sons, *three* in ZUBAIDA, and *eight* in ZAID's representatives;

sentatives; since, to ascertain the share of each individual, the just-mentioned shares out of *sixteen* must be multiplied by *two*, and those out of *six*, by *three*, which is here called the *measure* of HINDA's vested interest.

Let us fourthly suppose, that ZUHRA also dies before any distribution, leaving her husband CĀAB, and two brothers CĀLIB and TĀRIF. Now her own estate is arranged by *four*, the husband taking a *moiety*, and each of the residuaries *one fourth*; but *four* and *nine* are prime to each other; and *four*, therefore, multiplied by *thirty-two*, produces an *hundred and twenty-eight*, the denominator of both cases: we must then multiply by *four* the shares out of *thirty-two*, and by *nine* the shares out of *four*, and the products will be lots of the several claimants; *eight* parcels going to LATĪFA, *sixteen* to ABID, *eight* to BASIRA, *forty-eight* in moieties to HĀTIF and BASHAR, *twelve* to ZUBAIDA, *eighteen* to CĀAB, and *eighteen* in moieties to CĀLIB and TĀRIF.

We need only add, that, although the conclusion of the chapter before us be obscured by its extreme conciseness, yet it plainly means, that, “when any number of heirs die successively before the distribution, if the *shares vested* in the last deceased do not quadrate with the *arrangement* of his own estate, we must consider all those, who died before him, as *one deceased heir*, and himself as the *second*, and then work by the preceding rules:” to give more examples would be very easy, but the reader would find them insupportably tedious.

All controversies on the claims of the *next of kin*, who are neither *sharers* nor *residuaries*, are now at an end*; for it seems to be settled, that they succeed according to the order prescribed in our text.

* Page 537.

I. On the *first* class of distant kindred the doctrine of ABU YÚSUF has far more simplicity than that of MUHAMMED, in which there is an appearance of intricacy; but an attentive reader will find no difficulty in the case reduced to the form of a table, in which the lowest of the six ranks are supposed to be the claimants of AMRU's estate*: he will see, that ABU YÚSUF would divide that estate into *fifteen* parts, giving *one* to each of the female, and *two*, by the rule in the *Koràn*, to each of the male, descendants; but that MUHAMMED would arrange it in *sixty* parcels, *twenty-four* of which would go to the representatives of the *three* sons, and *thirty-six* to those of the *nine* daughters; due regard being paid to the *double portion* of the male descendants, so as to bring the shares of the *twelve* claimants to the following order from the left hand, *twelve, eight, four; nine, three, six; six, two, four; three, two, one*. The correctness of this method has, it seems, obtained it a preference over that of ABU YÚSUF, whose practice, however, is followed, on account of its facility, in *Bokhára* and some other places; although of the two different traditions from ABU HANÍFA, that reported by MUHAMMED be the more publickly known and the more generally believed.

The reader would be unnecessarily fatigued, if we were to exhibit every step of the arithmetical process, by which the estate of AMRU must be distributed, according to the opinion of MUHAMMED, between his *great grandson* by females only, and his *two great granddaughters*, who have the advantage of a male in the line of descent†; nor does the section concerning the difference of *sides* require elucidation.

II. On the *second* class, or the *grandfathers* and *grandmothers*, who are excluded from *shares*, we need only sum up the doctrine of our author in the words of SHARÍF:—"The degrees in this case are either equal or

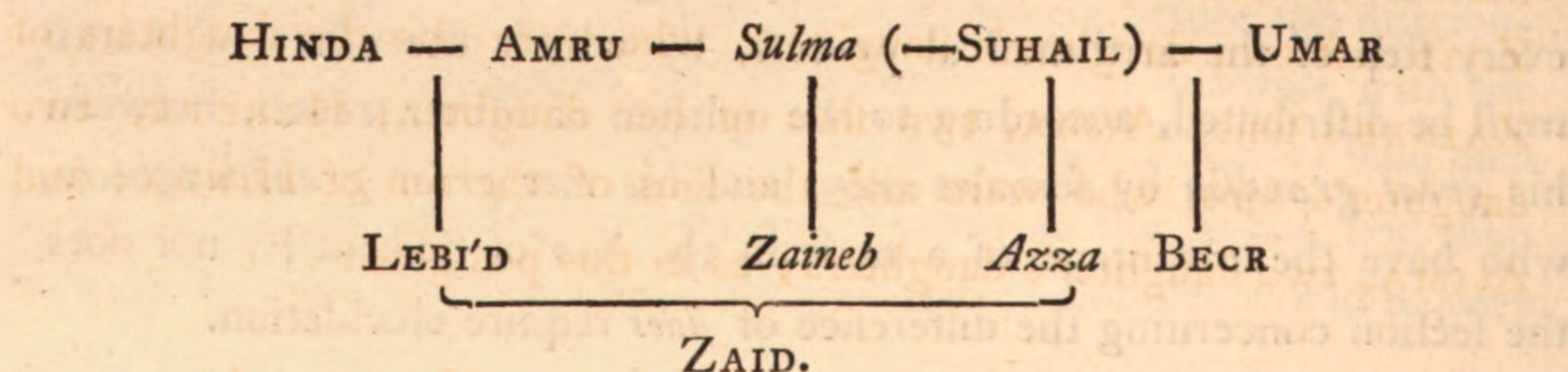
* Page 539.

† Page 541.

“ unequal ; if *unequal*, the nearer is preferred ; if *equal*, the preference
 “ is given to the person claiming *through a sharer* ; if there be an *equality*
 “ in that respect, the *fides* must be the same or different ; if different,
 “ the distribution must be made in *thirds*, the paternal fide having a
 “ *double* allotment ; if *the same*, the *sexes* of the *roots*, or ancestors, must
 “ agree, or not ; if they agree, the estate must be distributed according
 “ to the persons of the *branches*, or claimants ; if not, according to the
 “ *first* rank that differs, as in the preceding class*.”

III. There seems no difficulty in the chapter † on the third class of distant kindred ; but it must be remarked, that although the brothers and sisters by the same *mother only* take equally, according to the *Koràn*, without any distinction of sex, yet that exception to the general rule by no means extends to the *issue* of such brothers and sisters.

IV. Although the claims of *uncles* and *aunts*, in three cases, be clearly explained in the text ‡, yet it may not be improper, to subjoin an example from the commentary of *Maulavi KASIM*, which the following pedigree will make more intelligible than his dry state of the case :



AMRU, having had by HINDA a son, named LEBID, married SULMA, by whom he had a daughter, named ZAINEB : after AMRU's death, SULMA married SUHAIL, to whom she produced AZZA, and after his

* Page 541.

† Page 542.

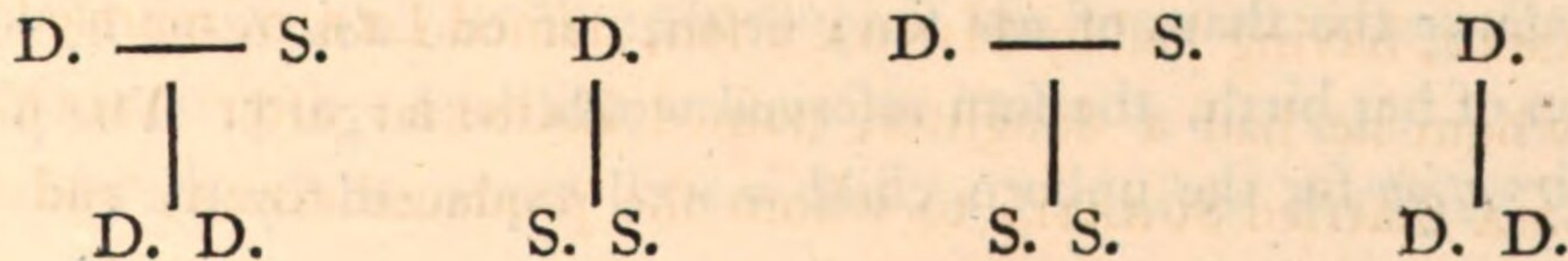
‡ Page 545.

death,

death, she married UMAR, by whom she became the mother of BECR: now ZAID was the son of LEBID and AZZA; and he died, leaving no heirs but BECR the brother, by the *same mother*, of his mother AZZA, and ZAINEB, who was his *paternal* aunt by the *same father* AMRU, and his *maternal* aunt by the *same mother* SULMA. In this case, the property of ZAID must be divided into *nine* parcels, of which the *paternal* aunt will have *two thirds*; and the remaining *third* will go to the *maternal uncle* and *aunt* in the ratio of *two* to *one*; so that ZAINEB, in her two characters, will be entitled to *seven ninths*.

There seems no necessity to expatiate on the *children of uncles and aunts*, or on the *cousins*, as we should call them, in different degrees*; because the text will be sufficiently perspicuous to those, who perfectly understand the preceding sections: but, since a curious case is put by SHARIF, I am unwilling to suppress it; especially as it will throw light on the whole subject before us. The *father* of AMRU had a brother, ZAID, and two sisters, ZAINEB and AA'ISHA, by the same father only: his *mother* also had a brother, HA'RETH, and two sisters by the same father, named HINDA and ASIMA: first, his father and mother died; then, all his *uncles* and *aunts*, leaving the following issue: ZAID left two daughter's daughters, who were also the daughters of ZAINEB's sons; AISHA, two sons of her daughter; HA'RETH, two daughter's sons, who were also the sons of the son of HINDA; and ASIMA, two daughter's daughters; as in this pedigree:

ZAID. ZAINEB. AA'ISHA. HA'RETH. HINDA. ASIMA.



* Page 545.

AMRU himself afterwards died, with no heirs but the *grandchildren* of his uncles and aunts: In this case ABU YUSUF would have divided the inheritance into *thirty* parts; *twenty* for the *paternal* side; that is, *five* for each of the sons, and as many for each of the daughters, who have a double relation; and *ten* for the *maternal* side, or *four* for each of the sons, who are doubly related, and *one* for each of the daughters: but MOHAMMED, having divided AMRU's estate into *thirty-six* allotments, would have given *twenty-four* to the paternal, and *twelve* to the maternal side; that is, *six* to each of ZAID's granddaughters, as such, and *four* to each of them, as granddaughters of ZAINEB; *two* to each of AAISHA's grandsons; *three* to each grandson of HARETH, as such; and *two* more to each of them, as grandsons of HINDA; while *one thirty-sixth* part would have gone to each of ASIMA's female descendants. The reason of these different distributions will appear from what has preceded; but the arithmetical processes would fill many pages, and would be thought, I am persuaded, unnecessarily prolix.

On the chapter concerning hermaphrodites*, I shall make no particular observation; since monstrous births are, I trust, extremely rare in all countries, and the subject is too shocking to be discussed without actual necessity; nor will it answer, I imagine, any useful purpose to relate the old *Arabian* stories, and strange opinions of some lawyers, concerning the longest possible time of gestation†; which is now limited, on the authority of AAISHA, one of MOHAMMED's wives, to *two years*; and, though the *Muselmans* have traditionary accounts of *three, four,* or even *five* children produced at one birth, yet the practice, we find, is to reserve the share of *one* son; or that of one *daughter*, if, on supposition of her birth, the sum reserved would be larger‡. The practice of *reservation* for the unborn child is well explained by the case in the

* Page 547.

† Page 548.

‡ Page 549, 550.

text, to which we may now proceed, since the rest of the chapter needs no illustration ; unless it be necessary to inform the reader, that a widow ought by law to abstain for a certain time after her husband's death, from the careffes of any other man ; and, if she freely confess that she has not abstained, it cannot be certain, that her husband was the father of a child born more than six months after his death. Let us then suppose AMRU to die, leaving a daughter ZAINEB, his mother ASUMA, his father LEBID, and his wife HINDA enfeint*. So that, if a male child be born, AMRU's estate ought regularly to be divided into *twenty-four* parts, but, on the birth of a female, into *twenty-seven* ; because, in the first case, the *shares* are an *eighth*, for the widow, and a *sixth* for each of the parents ; but, in the second, besides the shares just mentioned, the daughters would have *two-thirds* between them, and it would be the case of *Mimberiyya*†. Now *three* is the *common* measure of *twenty-four* and *twenty-seven*, and the several *measures* of those numbers are *eight* and *nine*, either of which, multiplied into the other *whole* number, gives *two hundred and sixteen* for the product ; and that, according to what has preceded, is the number of shares into which the inheritance must be actually divided. In the first case HINDA would have *twenty-seven* shares ; LEBID and ASUMA, each *thirty-six* ; the posthumous son *seventy-eight*, and ZAINEB, his sister, *thirty-nine* ; but, in the second, the widow would have *twenty-four* ; and each of the parents, *thirty-two* ; while the posthumous daughter and her sister would divide the remainder between them, each taking *sixty-four* shares. Should *four* posthumous sons be born, *ninety-nine* shares would go to the widow and both parents ; while the remainder would be divided among the children by the rule before mentioned, ZAINEB receiving *thirteen* parts, and each of her brothers, *twenty-six* ; but, in the case of a miscarriage, the daughter would be entitled to a *hundred and eight* parts,

* Page 550.

† Page 527.

or a moiety of the whole estate, and the *nine* parts remaining would go to LEBID as residuary heir.

The time, at which an absent person is presumed in law to be dead, has varied, we see, in different ages*; but the modern practice I understand to be this: if ZAID has been so long absent, that no man can tell whether he be dead or alive, and if *seventy* years have elapsed from the day of his birth, he is presumed to be dead, as to *his own* property, from the end of that term, but, as to his hereditary claims on the property of *another*, from the day of his absence; so that, in the first case, no person, dying within the seventy years, could have inherited any part of *his* estate; nor, in the second, could he inherit from any one, who died after the day, when he first was missed. Though the arrangement of an inheritance, on which an absent person may have a claim, be sufficiently clear from what has just preceded, yet a feigned case in illustration of it will not, perhaps, be thought wholly superfluous. If HINDA then die at *Murshbedabad*, leaving AMRU her husband, with two sisters of the whole blood, NÁDIRA and SACÍNA, all residing in that city, and a whole brother ZAID, who has long been absent and unheard of, we must consider what effect his life or his death would have on the inheritance: if he be dead, AMRU must have a *moiety* of the estate, and the sisters *two thirds* between them; and, if he be living, the widower will still have a right to his half, but ZAID will take twice as much as either of the sisters. Now, on the first supposition, the assets of HINDA must be divided, as we have shown, into *seven* shares, of which AMRU must have *three*, and each of the sisters, *two*; but, on the second, into *eight* parts, *four* of which go the husband, and *two* to the brother, while NÁDIRA and SACÍNA can only have *one* a piece; so that the widower has an interest in supposing ZAID alive, and the sisters, in supposing him

* Page 551.

dead :

dead: *fifty-six*, therefore, or the product of *seven* and *eight*, which are *prime* to one another, is the number of shares, into which the estate must be divided; *twenty-four* of them being delivered to AMRU, and *seven* to each of the females, as the least shares to which they can in either event be severally entitled; if ZAID then return to the city, *four* shares more go to AMRU, and *fourteen* are the right of the brother; but, if his death be proved, or presumed by lapse of time, the *eighteen* reserved shares must be divided equally between SACINA and NADIRA, to complete their *two sevenths*, which the law gives, in that case, to each of them. The *Persian* commentator has added three cases, in one of which the two first divisors of the assets are *composit* to each other; but the operation in all of them is too easy to require an example.

In the sections concerning apostates and prisoners of war*, there seems to be no obscurity; but it is proper to add, that, as the law is now settled, the heirs of an apostate, who were in being at the time of his death, are entitled to their legal shares, whether they were born before or after his apostasy; though a husband or wife cannot succeed to an apostate, because a change of religion is an immediate dissolution of the marriage.

We are now come to the concluding section, which cannot be better illustrated than by two feigned cases from the *Persian* and *Arabian* comments. 1. ZAID and his daughter ABLA were at sea in the same ship, together with BASHAR, his brother's son, and his great nephew AMRU, son of BASHAR: the ship was lost, and all, who were in it, perished; so that which of them first died, could never be clearly ascertained. Now AMRU left behind him a wife and a daughter; and ABLA had an only son: in this case, by the opinion of ABU HANIFAH

* Page 552, 553.

and his followers, the four drowned persons are supposed to have perished in the same instant, and their several estates go to their surviving heirs respectively, according to the rules, which have been already explained; but by one of two traditions from ALI, the assets of ZAID being equally divided, and ABLA being supposed to have outlived her father, her son takes one moiety in her right, while the other moiety is conceived at first to have vested in BASHAR, and then in AMRU, between whose widow and daughter it is distributable according to law.

2. KÁSİM and his younger half-brother HASAN were drowned in the same boat, each leaving a mother, a daughter, and a patron, by whom each of them had been manumitted: then, if each of them left *ninety* pieces of gold on shore, the property of each must be severally distributed, according to the HANIFEANS; the daughter of each taking *half*, or *forty-five* pieces; the mother a *sixth*, or *fifteen*, and the manumittor, as residuary, the *thirty* pieces which remain; but according to ALI, the younger brother HASAN being first considered as the survivor, that residue vests in him, and is then distributed, in the just mentioned ratio; *half* of it, or *fifteen*, going to his daughter; a *sixth*, or *five* pieces, to his mother; and *ten*, the residue, to his patron; next, KÁSİM being supposed to have survived, the same rule is applied to him; so that the daughter of each takes on the whole *sixty*; the mother, *twenty*; and the manumittor, *ten* pieces of gold.

قَدْ طُبِعَ هَذَا الْكِتَابُ الْهَسْبِيُّ بِالْفَرَائِضِ السَّرَاجِيَّةِ

بِدَارِ الْأَمَارَةِ بِلَدَةِ كَاكْتَةِ الْحَمِيَّةِ وَذَلِكَ بِأَمْرِ

سِرِّ وَلِيمِ يُونُسَ الَّذِي هُوَ أَحَدُ حُكَّامِ الْحَكْمَةِ الْعَالِيَةِ

السُّلْطَانِيَّةِ

فِي سَنَةِ الْفِ وَ مِائَتَيْنِ وَ وَاحِدٍ مِنَ الْهَجْرَةِ النَّبَوِيَّةِ

N.B. The *Persian* sheets must be placed according to the signatures (from the right hand to the left) so as to begin where an *English* book would end, and to end where that would begin. To follow page 592, vol. iii.

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تَصْحِيحُ الْكِتَابِ

عَدَدُ الْأَوْرَاقِ التَّصْحِيحِ السَّقِيمِ

١٨ وَأَوَّحَدُهَا وَأَوَّحَدُهَا

١٩ مِنْ أَيْنِ مِنْ أَيْنِ

١٩ الْآخِرِ الْآخِرِ

٢٠ الْهَالُ كُلُّهُ الْهَالُ كُلُّهُ

٢١ وَنِصْفَ سَهْمٍ إِنْ كَانَ وَنِصْفَ إِنْ كَانَ

٢٣ ذُكُورَتِهِ ذُكُورَتِهِ

٢٣ الْآخِرِ الْآخِرِ

قَدْ صَحِّحَ هَذَا الْكِتَابَ بِعَوْنِ اللَّهِ تَعَالَى الْهَلِكِ الْوَهَابِ

تَصْحِيحُ الْكِتَابِ

عَدَدُ الْأَوْرَاقِ التَّصْحِيحُ السَّقِيمُ

١٩ الْأُنَاثُ الْأُنَاثُ

١٧ ابْنِي بِنْتِ بِنْتِ بِنْتِ ابْنَيْنِ بِنْتِ بِنْتِ بِنْتِ .

١٧ بِنْتِ ابْنِ بِنْتِ بِنْتِ بِنْتِ ابْنِ بِنْتِ بِنْتِ .

١٧ بِنْتِي بِنْتِ ابْنِ بِنْتِ بِنْتَيْنِ بِنْتِ ابْنِ بِنْتِ .

١٧ الْآخِرُ الْآخِرُ

١٧ إِلَهَ وَائْتَيْنِ الرَّوَائْتَيْنِ

١٧ بِنْتِي بِنْتِ بِنْتِ بِنْتِ

١٧ ابْنِي ابْنِ ابْنِ ابْنِ

١٧ ابْنِ ابْنِ ابْنِ ابْنِ

تَصْحِيحُ الْكِتَابِ

عَدَدُ الْأَوْرَاقِ التَّصْحِيحِ السَّتِيمِ

١٥ أُولَئِهِمْ أُولَئِهِمْ

١٥ فَانَّهَا فَانَّهَا

١٦ أَوْكَانَ أَوْكَانَ

١٦ صِفَّةَ صِفَّةَ

١٦ اثْلَاثًا اثْلَاثًا

١٦ لِلذَّكْرِ لِلذَّكْرِ

١٦ رَحْمَةُ اللَّهِ رَحْمَةُ اللَّهِ

١٦ اثْلَاثًا اثْلَاثًا

١٦ وَالْإِنَاثُ وَالْإِنَاثُ

تَصْحِيحُ الْكِتَابِ

عَدَدُ الْأَوْرَاقِ الصَّحِيحُ السَّقِيمُ

٤ اَعْتَقَن اَعْتَقَن

١٢ مَالِكُ مَالِكُ

١٢ اِنْ وَاثَقَ اَنْ وَاثَقَ

١٣ ثُمَّ اضْرَبُ ثُمَّ اضْرَبُ

١٣ اَخْتِ اَخْتِ

١٥ اَبَوَي اَبَوَي

١٥ الرَّابِعُ الرَّابِعُ

١٥ اَنَّ اقْرَبَ اَنَّ اقْرَبَ

١٥ الْبَاخُوذُ الْبَاخُوذُ

مَا تَوَامَعَا فَبَالَ كُلِّ وَاحِدٍ مِنْهُمْ لَوَرَثَتَهُ الْأَحْيَاءُ وَلَا يَرِثُ

بَعْضُ الْأَمْوَاتِ مِنْ بَعْضٍ هَذَا هُوَ الْمَخْتَارُ وَقَالَ عَلِيُّ

وَ ابْنُ مَسْعُودٍ فِي أَحَدِي الرَّوَايَتَيْنِ عَنْهَا بَعْضُهُمْ

يَرِثُ مِنْ بَعْضٍ إِلَّا فِيمَا وَرِثَ كُلُّ وَاحِدٍ مِنْهُمْ مِنْ صَاحِبِهِ

تَبَّتِ الْفَرَائِضُ السِّرَّاجِيَّةُ بِعَوْنِ

اللَّهِ تَعَالَى

تَصْحِيحٌ

فَهُوَ فِيهِ بِالْأَجْبَاعِ وَكَسْبِ الْبِرْتَدَةِ جَمِيعًا لَوَرَّثَهَا الْمُسْلِمِينَ

بِالْخِلَافِ بَيْنَ أَصْحَابِنَا رَحِمَهُمُ اللَّهُ وَأَمَّا الْبِرْتَدَةُ فَلَا يَرِثُ

مَنْ أَحَدٍ لَأَمِنْ مُسْلِمٍ وَلَا مِنْ مُرْتَدٍ مِثْلَهُ وَكَذَلِكَ الْبِرْتَدَةُ

لَا تَرِثُ مِنْ أَحَدٍ إِلَّا إِذَا ارْتَدَ أَهْلُ نَاحِيَةٍ بِأَجْمَعِهِمْ فَحِينَئِذٍ

يَتَوَارَثُونَ

بَابُ الْأَسِيرِ

حُكْمُ الْأَسِيرِ كَحُكْمِ سَائِرِ الْمُسْلِمِينَ فِي الْبِيرَاتِ مَا لَمْ

يُفَارِقَ دِينَهُ فَإِنْ فَارَقَ دِينَهُ فَحُكْمُهُ حُكْمُ الْبِرْتَدَةِ فَإِنْ لَمْ يَعْلَمْ

رِدَّتَهُ وَلَا حَيَاتَهُ وَلَا مَوْتَهُ فَحُكْمُهُ حُكْمُ الْبِغْضِ

فَصَلِّ فِي الْغُرَقِيِّ وَالْحَرَقِيِّ وَالْهَدْمِيِّ

إِذَا مَاتَ جَبَاعَةً وَلَا يُدْرِي أَيُّهُمْ مَاتَ أَوَّلًا جُعِلُوا كَأَنَّهُمْ

من ماله لان المفقود ميت في مال غيره الاصل في تصحيح

مسائل المفقود ان تصحح المسئلة علي تقدير حياته ثم

تصحح المسئلة علي تقدير وفاته و باقي العمل

ما ذكرنا في الحمل

فصل في المرتد

اذا مات المرتد او قتل او لحق بدار الحرب وحكم القاضي

بلحوقه فبا اكتسابه في حال اسلامه فهو لورثته المسلمين

وما اكتسبه في حال الردة يوضع في بيت المال عند

ابي حنيفة رحمه الله وعندهما الكسبان جميعا لورثته

المسلمين وعند الشافعي رحمه الله الكسبان يوضعان

في بيت المال وما اكتسبه بعد اللحوق بدار الحرب

فهو في

يَصِحُّ مَوْتُهُ أَوْ يَهْضِي عَلَيْهِ الْبُذَّةُ وَاخْتَلَفَتْ الرِّوَايَاتُ فِي تِلْكَ

الْبُذَّةِ فَغِي ظَاهِرُ الرِّوَايَةِ أَنَّهُ إِذَا لَمْ يَبْقَ أَحَدٌ مِنْ أَقْرَانِهِ

حُكِمَ بِمَوْتِهِ وَرَوَى الْحَسَنُ بْنُ زِيَادٍ عَنِ ابْنِ حَنِيفَةَ رَحِمَهُ اللَّهُ

أَنَّ تِلْكَ الْبُذَّةَ مِائَةٌ وَعِشْرُونَ سَنَةً مِنْ يَوْمٍ وَلِدَ فِيهِ وَقَالَ

مُحَمَّدٌ مِائَةٌ وَعِشْرِينَ سَنَةً وَقَالَ أَبُو يُونُسَ مِائَةٌ وَخَمْسَ سِنِينَ

وَقَالَ بَعْضُهُمْ تِسْعُونَ سَنَةً وَعَلَيْهِ الْغَتَوِيُّ وَقَالَ بَعْضُهُمْ

مَالُ الْبَغُوقِ مَوْقُوفٌ إِلَى اجْتِهَادِ الْإِمَامِ وَمَوْقُوفٌ الْحُكْمُ

فِي حَقِّ غَيْرِهِ حَتَّى يُوقَفَ نَصِيبُهُ مِنْ مَالِ مَوْرَثِهِ كَمَا فِي

الْحَبْلِ فَإِذَا مَضَتْ الْبُذَّةُ وَحُكِمَ بِمَوْتِهِ فَبَالَهُ لَوْرَثَتِهِ

الْمَوْجُودِينَ عِنْدَ الْحُكْمِ بِمَوْتِهِ وَمَا كَانَ مَوْقُوفًا لِأَجَلِهِ مِنْ

مَالِ مَوْرَثَتِهِ يَرُدُّ إِلَى وَارِثِ مَوْرَثَتِهِ الَّذِي وَقَّفَ ذَلِكَ الْبَوْقُوفَ

مِنْ

سَهْمًا لِأَنَّ الْهَوَاقِفَ فِي حَقِّهَا نَصِيبٌ أَرْبَعَةُ بَنِينَ عِنْدَ
أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ وَإِذَا كَانَ الْبَنُونَ أَرْبَعَةً فَنَصِيبُهَا سَهْمٌ
وَأَرْبَعَةُ أَتْسَاعِ سَهْمٍ مِنْ أَرْبَعَةٍ وَعِشْرِينَ مَضْرُوبٍ فِي تِسْعَةِ فِصَارٍ
ثَلَاثَةَ عَشَرَ سَهْمًا فِيهَا لَهَا وَالْبَاقِي مَوْقُوفٌ وَهُوَ مِائَةٌ وَخَمْسَةٌ
عَشَرَ سَهْمًا فَإِنْ وَلَدَتْ بِنْتًا وَاحِدَةً أَوْ أَكْثَرَ فَجَمِيعُ الْهَوَاقِفِ
لِلْبَنَاتِ وَإِنْ وَلَدَتْ ابْنًا وَاحِدًا أَوْ أَكْثَرَ فَيُعْطَى لِلْمَرْأَةِ وَالْأَبَوَيْنِ
مَا كَانَ مَوْقُوفًا مِنْ نَصِيبِهِمْ وَمَا بَقِيَ يُقَسَّمُ بَيْنَ الْأَوْلَادِ
وَإِنْ وَلَدَتْ مِائَتًا فَيُعْطَى لِلْمَرْأَةِ وَالْأَبَوَيْنِ مَا كَانَ مَوْقُوفًا مِنْ
نَصِيبِهِمْ وَلِلْبَنَاتِ إِلَى تَبَاقِ النِّصْفِ فَهُوَ خَمْسَةٌ وَتِسْعُونَ سَهْمًا
وَالْبَاقِي لِلْأَبِ وَهُوَ تِسْعَةُ أَشْرَمٍ لِأَنَّهُ عَصَبَةٌ

بَابُ الْبَقُولِ

الْبَقُولُ حَيٌّ فِي مَالِهِ حَتَّى لَا يَرِثَ مِنْهُ أَحَدٌ وَيُوقَفُ مَالُهُ حَتَّى

وَاحِدٍ مِنَ الْوَرَثَةِ مَا كَانَ مَوْقُوفًا مِنْ نَصِيْبِهِ كَمَا اِذَا تَرَكَ بِنْتًا
 وَأَبَوَيْنِ وَامْرَأَةً حَامِلَةً فَالْبَسْبَلَةُ مِنْ أَرْبَعَةٍ وَعِشْرِينَ عَلَيَّ
 تَقْدِيرَانِ الْحَمْلُ ذَكَرٌ وَمِنْ سَبْعَةٍ وَعِشْرِينَ عَلَيَّ تَقْدِيرَانِهِ
 اُنْثَى وَبَيْنَ عَدَدِي تَصْحِيحُ الْبَسْبَلَتَيْنِ تَوَافَقَ بِالثَّلَاثِ
 فَإِذَا ضَرَبَ وَفَقَ أَحَدَهُمَا فِي جَمِيعِ الْأَخْرَاصِ الْحَاصِلُ مَاتَيْنِ
 وَسِتَّةَ عَشْرَ شَهَابًا وَمَتَرَهَا تَصْحِيحُ الْبَسْبَلَةِ وَعَلَيَّ تَقْدِيرُ ذَكَوْرَتِهِ
 لِلْمَرْأَةِ سَبْعَةٌ وَعِشْرُونَ وَلِكُلِّ وَاحِدٍ مِنَ الْأَبَوَيْنِ سِتَّةٌ
 وَثَلَاثُونَ وَعَلَيَّ تَقْدِيرُ الْأُنْثَى لِلْمَرْأَةِ أَرْبَعَةٌ وَعِشْرُونَ وَلِكُلِّ
 وَاحِدٍ مِنَ الْأَبَوَيْنِ اِثْنَانِ وَثَلَاثُونَ فَيُعْطَى لِلْمَرْأَةِ أَرْبَعَةٌ
 وَعِشْرُونَ وَيُوقَفُ مِنْ نَصِيْبِهَا ثَلَاثَةُ أَشْهُمٍ وَيُوقَفُ مِنْ نَصِيْبِ
 كُلِّ وَاحِدٍ مِنَ الْأَبَوَيْنِ أَرْبَعَةُ أَشْهُمٍ وَيُعْطَى لِلْبِنْتِ ثَلَاثَةُ عَشَرَ

الحمل ذكر وعلي تقدير انه انثى ثم تنظر بين تصحيح

المسئلتين فان توافقا فاضرب وفق احديهما في جميع

الآخري وان تبایننا فاضرب كل احديهما في جميع الآخري

فالحاصل تصحيح المسئلة ثم اضرب نصيب من كان له شئ

من مسئلة ذكوريته في مسئلة انوثته اوفي وفقها ثم من كان

له شئ من مسئلة انوثته في مسئلة ذكوريته اوفي وفقها

كها ذكر نافي الخنثي ثم انظر في الحاصلين من الضرب

ايهما اقل يعطي لذلك الوارث والفضل بينهما موقوف من

نصيب ذلك الوارث فاذ اظهر الحمل فان كان مستحقا

لجميع الموقوف فيها وان كان مستحقا للبعض فيأخذ

ذلك البعض والباقي مقسوم بين الورثة فيعطي لكل

واحد

وَلَمْ تَكُنِ الْهَرَاءُ أَقْرَبَ بِانْقِصَاءِ الْعِدَّةِ يَرِثُ وَيُورِثُ عَنْهُ وَإِنْ

جَاءَتْ بِالْوَلَدِ لَأَكْثَرُ مِنْ أَكْثَرِ مَدَّةِ الْحَمَلِ لَا يَرِثُ وَلَا يُورِثُ

عَنْهُ وَإِنْ كَانَ الْحَمَلُ مِنْ غَيْرِهِ وَجَاءَتْ بِالْوَلَدِ لِسِتَّةِ أَشْهُرٍ أَوْ

أَقْلَ يَرِثُ وَإِنْ جَاءَتْ بِالْوَلَدِ لَأَكْثَرُ مِنْ أَقْلِ مَدَّةِ الْحَمَلِ

لَا يَرِثُ وَطَرِيقُ مَعْرِفَةِ حَيَوَةِ الْحَمَلِ وَقْتُ الْوِلَادَةِ أَنْ يَوْجَدَ

مِنْهُ مَا يَعْلَمُ بِهِ الْحَيَوَةُ كَصَوْتٍ أَوْ عَطَاسٍ أَوْ بَكَاءٍ أَوْ ضَحِكٍ أَوْ

تَحَرُّكِ أَوْ غَيْرِ ذَلِكَ فَإِنْ خَرَجَ أَوَّلُ الْوَلَدِ ثُمَّ مَاتَ لَا يَرِثُ وَإِنْ خَرَجَ

أَكْثَرُهُ ثُمَّ مَاتَ يَرِثُ فَإِنْ خَرَجَ الْوَلَدُ مُسْتَقِيمًا فَالْمُعْتَبَرُ

صَدْرُهُ أَعْنِي إِذَا خَرَجَ صَدْرُهُ كُلُّهُ يَرِثُ وَإِنْ خَرَجَ مُتَكَوِّسًا

فَالْمُعْتَبَرُ سِرَّتُهُ الْأَصْلُ فِي تَصْحِيحِ مَسَائِلِ الْحَمَلِ أَنْ

تُصَحِّحَ الْمَسْئَلَةُ عَلَيَّ تَقْدِيرَيْنِ أَعْنِي عَلَيَّ تَقْدِيرَانِ

الْحَمَلِ

سَنِينَ وَعِنْدَ الشَّافِعِيِّ رَحِمَهُ اللَّهُ أَرْبَعُ سَنِينَ وَعِنْدَ الرَّهْرِيِّ

رَحِمَهُ اللَّهُ سَبْعَ سَنِينَ وَأَقْلَهَا سِتَّةَ أَشْهُرٍ وَيُوقَفُ لِلْحَمْلِ

عِنْدَ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ نَصِيبُ أَرْبَعَةِ بَنِينَ أَوْ نَصِيبُ أَرْبَعِ

بَنَاتٍ أَيْهَذَا أَثَرُ وَيُعْطَى لِبَقِيَّةِ الْوَرَثَةِ أَقْلُ الْأَنْصِبَاءِ وَعِنْدَ

مُحَمَّدٍ رَحِمَهُ اللَّهُ يُوقَفُ نَصِيبُ ثَلَاثَةِ بَنِينَ أَوْ ثَلَاثِ بَنَاتٍ

أَيْهَذَا أَكْثَرُ رَوَاهُ عَنْهُ لَيْثُ بْنُ سَعْدٍ رَضِيَ اللَّهُ عَنْهُ وَفِي رِوَايَةٍ

أُخْرَى نَصِيبُ ابْنَيْنِ وَاحِدٍ مِنَ الرَّوَايَتَيْنِ عَنْ أَبِي يُوسُفَ

رَحِمَهُ اللَّهُ رَوَاهُ عَنْهُ هِشَامٌ وَرَوَى الْخَصَافُ عَنْ أَبِي يُوسُفَ

رَحِمَهُ اللَّهُ أَنَّهُ يُوقَفُ نَصِيبُ ابْنٍ وَاحِدٍ أَوْ بِنْتٍ وَاحِدَةٍ وَعَلَيْهِ

الْفَتْوَى وَيُؤْخَذُ الْكَفِيلُ عَلَى قَوْلِهِ وَإِنْ كَانَ الْحَمْلُ مِنَ

الْبَيْتِ وَجَاءَ بِالْوَلَدِ لِتَهَامٍ أَكْثَرَ مَدَّةِ الْحَمْلِ أَوْ أَقْلَ مِنْهَا

وَلَمْ

مُحَمَّدٌ رَحِمَهُ اللَّهُ يَأْخُذُ الْخَنْثِي خَمْسِي الْهَالِ إِنْ كَانَ ذَكَرًا
 وَرُبْعَ الْهَالِ إِنْ كَانَ أُنْثَى فَيَأْخُذُ نِصْفَ النَّصِيبَيْنِ وَذَلِكَ
 خَمْسٌ وَثَمَنٌ بِاعْتِبَارِ الْحَالَيْنِ وَتَصَحَّحَ مِنْ أَرْبَعِينَ وَهُوَ
 الْمَجْتَمِعُ مِنْ ضَرْبِ أَحَدِ الْمَسْنَلَتَيْنِ وَهِيَ الْأَرْبَعَةُ
 فِي الْآخِرِي وَهِيَ الْخَمْسَةُ ثُمَّ الْهَالُ فِي الْحَالَتَيْنِ فَمَنْ
 كَانَ لَهُ شَيْءٌ مِنَ الْخَمْسَةِ فَهَضْرُوبٌ فِي الْأَرْبَعَةِ وَمَنْ كَانَ لَهُ
 شَيْءٌ مِنَ الْأَرْبَعَةِ فَهَضْرُوبٌ فِي الْخَمْسَةِ فَضَارٌ لِلْخَنْثِي
 ثَلَاثَةُ عَشَرَ وَلِلْأَبْنِ ثَمَانِيَّةٌ عَشَرَ وَلِلْبَنَاتِ تِسْعَةٌ أَسْمٌ

بَابُ فِي الْحَمْلِ

أَكْثَرُ مَدَّةِ الْحَمْلِ سِتَانِ عِنْدَ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ
 وَأَصْحَابُهُ وَعِنْدَ لَيْثِ بْنِ سَعْدٍ الْفَهْرِيِّ رَحِمَهُ اللَّهُ ثَلَاثُ

رَضِيَ اللَّهُ عَنْهُمْ وَعَلَيْهِ الْغُتُورِي كَمَا إِذَا تَرَكَ ابْنًا وَبِنْتًا وَخُنْثَى

فَلِلْخُنْثَى نَصِيبٌ بِنْتٌ لِأَنَّهُ مُتَيْقِنٌ وَعِنْدَ عَامِرِ الشَّعْبِيِّ

وَهُوَ قَوْلُ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ عَنْهَا لِلْخُنْثَى نِصْفٌ

النَّصِيبَيْنِ بِالْمَنَازَعَةِ وَاخْتَلَفَا فِي تَخْرِيجِ قَوْلِ الشَّعْبِيِّ قَالَ

أَبُو يُونُسَ لِلْأَبْنِ سَهْمٌ وَلِلْبِنْتِ نِصْفٌ سَهْمٌ وَلِلْخُنْثَى ثَلَاثَةُ

أَرْبَاعٍ سَهْمٌ لِأَنَّ الْخُنْثَى يَسْتَحِقُّ سَهْمًا إِنْ كَانَ ذَكَرًا أَوْ

نِصْفًا إِنْ كَانَ أُنْثَى وَهَذَا مُتَيْقِنٌ فِي اخْتِزَانِ نِصْفِ مَجْمُوعِ

النَّصِيبَيْنِ أَوْ نَقُولُ يَأْخُذُ النِّصْفُ الْبَتِّيَّ مَعَ نِصْفِ

النِّصْفِ الْبَتْنَارِ فِيهِ فَصَارَ لَهُ ثَلَاثَةُ أَرْبَاعٍ سَهْمٌ لِأَنَّهُ يُعْتَبَرُ

السَّهْمُ وَالْعَوْلُ وَتَصَحَّحَ مِنْ تِسْعَةٍ أَوْ نَقُولُ لِلْأَبْنِ سَهْمَانِ وَلِلْبِنْتِ

سَهْمٌ وَلِلْخُنْثَى نِصْفُ النَّصِيبَيْنِ وَهُوَ سَهْمٌ وَنِصْفُ سَهْمٍ وَقَالَ

مُحَمَّدٌ

لَأَبٍ لَكِنِ الثَّلَاثِينَ لِمَنْ يَدُلِّي بِقَرَابَةِ الْأَبِ فَيُعْتَبَرُ فِيهِمْ قُوَّةُ

الْقَرَابَةِ ثُمَّ وَلَدَ الْعَصْبَةِ وَالثَّلَاثُ لِمَنْ يَدُلِّي بِقَرَابَةِ الْأُمِّ وَيُعْتَبَرُ

فِيهِمْ قُوَّةُ الْقَرَابَةِ ثُمَّ عِنْدَ أَبِي يُوسُفَ رَحِمَهُ اللَّهُ مَا أَصَابَ

كُلَّ فَرِيقٍ يُقَسَّمُ عَلَيَّ أَبْدَانُ فُرُوعِهِمْ مَعَ اعْتِبَارِ عَدَدِ

الْجِهَاتِ فِي الْفُرُوعِ وَعِنْدَ مُحَمَّدٍ رَحِمَهُ اللَّهُ يَقْسَمُ الْبَالُ

عَلَيَّ أَوَّلَ بَطْنٍ اخْتَلَفَ مَعَ اعْتِبَارِ عَدَدِ الْفُرُوعِ وَالْجِهَاتِ

فِي الْأَصُولِ كَمَا فِي الصَّنْفِ الْأَوَّلِ ثُمَّ يَنْتَقِلُ هَذَا الْحُكْمُ إِلَيَّ

جِهَةِ عَمُومَةِ أَبَوَيْهِ وَخَوَلَتَيْهِ ثُمَّ إِلَيَّ أَوْلَادِهِمْ ثُمَّ إِلَيَّ جِهَةِ عَمُومَةِ

أَبَوَيَّ أَبَوَيْهِ وَخَوَلَتَيْهِ ثُمَّ إِلَيَّ أَوْلَادِهِمْ كَمَا فِي الْعَصَبَاتِ

بَابُ الْخَنْثِيِّ

لِلْخَنْثِيِّ الْبَشْكِلُ أَقْلُ النَّصِيبِينَ اعْنِي أَسْوَءَ الْحَالَتَيْنِ

عِنْدَ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ وَأَصْحَابِهِ وَهُوَ قَوْلُ عَامَةِ الصَّحَابَةِ

الْعَمَّ وَأَبْنِ الْعَمَّةِ كَلَاهِبًا لِأَبٍ وَأُمٍّ أَوْلَابٍ الْهَالُ كُلُّهُ لِبْنَتِ

الْعَمِّ وَإِنْ كَانَ أَحَدُهُمَا لِأَبٍ وَأُمٍّ وَالْآخِرُ لِأَبٍ كَانَ الْهَالُ كُلُّهُ

لِبْنٍ كَانَتْ لَهُ قُوَّةُ الْقَرَابَةِ فِي ظَاهِرِ الرِّوَايَةِ قِيَاسًا عَلَيَّ

خَالَةِ لَأَبٍ مَعَ كَوْنِهَا وَلَدُ ذِي الرَّحِمِ تَكُونُ هِيَ أُولَى

لِقُوَّةِ الْقَرَابَةِ مِنَ الْخَالَةِ لِأُمٍّ مَعَ كَوْنِهَا وَلَدُ الْوَارِثِ لِأَنَّ التَّرْجِيحَ

بِمَعْنَى فِيهِ وَهُوَ قُوَّةُ الْقَرَابَةِ أُولَى مِنَ التَّرْجِيحِ فِي غَيْرِهِ وَهُوَ

الْأَدْلَى بِالْوَارِثِ وَقَالَ بَعْضُهُمُ الْهَالُ كُلُّهُ لِبْنَتِ الْعَمِّ لِأَبٍ لِأَنَّهَا

وَلَدُ الْعَصْبَةِ وَإِنْ اسْتَوَوْا فِي الْقُرْبِ وَلَكِنْ اخْتَلَفَ حَيْثُ قَرَّبَتْهُمْ

لَا عِتْبَارَ هُنَا لِقُوَّةِ الْقَرَابَةِ وَلَا لَوْلَدِ الْعَصْبَةِ فِي ظَاهِرِ الرِّوَايَةِ

قِيَاسًا عَلَيَّ عَمَّةٍ لِأَبٍ وَأُمٍّ مَعَ كَوْنِهَا ذَاتُ الْقَرَابَتَيْنِ وَلَوْلَدِ الْوَارِثِ

مِنَ الْجِهَتَيْنِ وَأَمَّا هَذَانِ فَفَرْضٌ لَيْسَتْ هِيَ بِأُولَى مِنَ الْخَالَةِ

لَأَبٍ

لَابٍ وَأُمٍ أَوْلَابٍ أَوْلَامٍ فَإِنْ كَانَ حَيْزُ قَرَابَتِهِمْ مُخْتَلِفًا فَلَا
 اعْتِبَارَ لِقُوَّةِ الْقَرَابَةِ كَعَمَّةٍ لَّابٍ وَأُمٍ وَخَالَاتٍ لَّامٍ أَوْ خَالَاتٍ لَّابٍ وَأُمٍ
 وَعَمَّةٍ لَّامٍ فَالْتَّلَثَانِ لِقَرَابَةِ الْأَبِ وَهُوَ نَصِيبُ الْأَبِ وَالتَّلَثُ
 لِقَرَابَةِ الْأُمِّ وَهُوَ نَصِيبُ الْأُمِّ ثُمَّ مَا أَصَابَ كُلَّ فَرِيقٍ يُقَسَّمُ بَيْنَهُمْ
 كَمَا لَوْ اتَّحَدَ حَيْزُ قَرَابَتِهِمْ

فَصْلٌ فِي أَوْلَادِهِمْ وَأَخْكَامِهِمْ

الْحُكْمُ فِيهِمْ كَالْحُكْمِ فِي الصَّنْفِ الْأَوَّلِ اعْنِي أَوْلَاهُمْ
 بِالْهَيَرَاتِ أَقْرَبَهُمْ إِلَى الْمَيْتِ مِنْ أَيِّ جِهَةٍ كَانَ وَإِنْ اسْتَوَوْا
 فِي الْقُرْبِ وَكَانَ حَيْزُ قَرَابَتِهِمْ مُتَّحِدًا فَمِنْ كَانَ لَهُ قُوَّةُ
 الْقَرَابَةِ فَهُوَ أَوْلَى بِالْأَجْمَاعِ وَإِنْ اسْتَوَوْا فِي الْقُرْبِ وَالْقَرَابَةِ وَكَانَ
 حَيْزُ قَرَابَتِهِمْ مُتَّحِدًا فَوَلَدُ الْعَصْبَةِ أَوْلَى مِنْهُنَّ لَا يَكُونُ كَبْنَتِ

بنت ابن اخ لاب وام بنت ابن اخ لاب بنت ابن اخ لام
الْبَالُ كُلُّهُ لِبْنْتِ ابْنِ الْاَخِ لِابِّ وَاُمِّ بِالِاتِّغَافِ لِانَّهَا وَلَدُ الْعَصْبَةِ
وَلَهَا اَيْضًا قُوَّةُ الْقَرَابَةِ

فصل في الصنف الرابع

الحكم فيهم انه اذا انفرد واحد منهم استحق البال كله
لعدم المزاحم واذا اجتمعوا وكان حيز قرا بينهم متحدا
كالعمات والاعمام لام او الاخوال والخالات فلاقوي منهم
اولي بالاجماع اعني من كان لاب وام اولي مهن كان
لاب ومن كان لاب اولي مهن كان لام كورا كانوا واناثا
وان كانوا كورا واناثا واستوت قرابتهم فللذكر مثل
حظ الانثيين كعم وعممة كلاهما لام او خال وخالة كلاهما
لاب

بِاعْتِبَارِ الْأَصُولِ وَإِنْ اسْتَوَوْا فِي الْقُرْبِ وَلَيْسَ فِيهِمْ وَلَدٌ عَصَبَةٌ

أَوْ كَانَ كُلُّهُمْ أَوْلَادُ الْعَصَبَاتِ أَوْ كَانَ بَعْضُهُمْ أَوْلَادُ الْعَصَبَاتِ

وَبَعْضُهُمْ أَوْلَادُ أَصْحَابِ الْفَرَائِضِ وَاخْتَلَفَتْ قَرَابَتُهُمْ

فَابُو يُوسُفَ رَحِمَهُ اللَّهُ يُعْتَبَرُ الْأَقْوَى وَمُحَمَّدٌ رَحِمَهُ اللَّهُ يَقْسِمُ

الْبَالُ عَلَى الْإِخْوَةِ وَالْأَخَوَاتِ نِصْفَيْنِ مَعَ اعْتِبَارِ عَدَدِ الْفُرُوعِ

وَالْجِهَاتِ فِي الْأَصُولِ فَمَا أَصَابَ كُلَّ فَرِيقٍ يَقْسِمُ بَيْنَ فُرُوعِهِمْ

كَهَذَا فِي الصَّنْفِ الْأَوَّلِ كَبْنَتِ بِنْتِ الْأَخْتِ لِأَبٍ وَأُمٍّ أُولَى مِنْ

ابْنِ بِنْتِ الْأَخِ لِأَبٍ عِنْدَ أَبِي يُوسُفَ رَحِمَهُ اللَّهُ لِقُوَّةِ الْقَرَابَةِ

وَعِنْدَ مُحَمَّدٍ رَحِمَهُ اللَّهُ يَقْسِمُ الْبَالُ بَيْنَهُمَا نِصْفَيْنِ بِاعْتِبَارِ

الْأَصُولِ كَمَا إِذَا تَرَكَ ثَلَاثَ بَنَاتٍ إِخْوَةً مُتَفَرِّقِينَ وَثَلَاثَ

بَنِينَ وَثَلَاثَ بَنَاتٍ أَخَوَاتٍ مُتَفَرِّقَاتٍ بِهَذِهِ الصُّورَةِ

الْأَوَّلُ وَإِنْ اِخْتَلَفَتْ قَرَابَتُهُمْ فَالثَّلَاثَانِ لِقَرَابَةِ الْأَبِ وَهُوَ نَصِيبُ
 الْأَبِ وَالثَّلَاثُ لِقَرَابَةِ الْأُمِّ وَهُوَ نَصِيبُ الْأُمِّ ثُمَّ مَا أَصَابَ كُلَّ
 فَرِيقٍ يَنْقَسِمُ بَيْنَهُمْ كَمَا لَوْ اتَّحَدَتْ قَرَابَتُهُمْ

فَصْلٌ فِي الصِّنْفِ الثَّالِثِ

الْحَكْمُ فِيهِمْ كَالْحَكْمِ فِي الصِّنْفِ الْأَوَّلِ اعْنِي أَوْلَاهُمْ
 بِالْبَيْرَاتِ أَقْرَبُهُمْ إِلَيَّ الْبَيْتِ وَإِنْ اسْتَوَوْا فِي الْقُرْبِ فَوَلَدُ
 الْعَصَبَةِ أَوْلَى مِنْ وَلَدِ دَوِي الْأَرْحَامِ كَبْنُ ابْنِ أَخٍ وَابْنُ
 بِنْتِ أُخْتٍ كَلَا هَبَالِيبٍ وَأُمُّ أَوْلَادٍ أَوْ أَحَدُ هَبَالِيبٍ وَأُمُّ وَالْآخِرُ
 لِأَبِ الْهَالِ كُلُّهُ لِبْنِ ابْنِ الْأَخِ لِأَنَّهَا وَلَدُ الْعَصَبَةِ وَلَوْ كَانَ
 لِأُمِّ بَيْنَهُمَا لِلدَّكْرِ مِثْلُ حَظِّ الْأُنثَيَيْنِ عِنْدَ أَبِي يُوسُفَ رَحِمَهُ
 اللَّهُ اثْلَاثًا بِاعْتِبَارِ الْإِبْدَانِ وَعِنْدَ مُحَمَّدٍ رَحِمَهُ اللَّهُ انْصَافًا

بِاعْتِبَارِ

فَصْلٌ فِي الصَّنْفِ الثَّانِي

أَوَّلَهُمْ بِالْبَيْرَاتِ أَقْرَبُهُمْ إِلَيَّ الْبَيْتِ مِنْ أَيِّ جِهَةٍ كَانَ
وَعِنْدَ الْأُسْتَوَاءِ فِي دَرَجَاتِ الْقُرْبِ فَهِنْ كَانَ يَدِي إِلَيَّ
الْبَيْتِ بِوَارِثٍ فَهُوَ أَوْلَى عِنْدَ أَبِي سَهِيلٍ الْفَرَّأَبِضِيِّ وَ
أَبِي قُضَيْلٍ الْخَصَّافِ وَعَلِيِّ ابْنِ عَيْسَى الْبَصْرِيِّ وَلَا تَفْضِيلَ
لَهُ عِنْدَ أَبِي سَلِيحَانَ الْجُرْجَانِيِّ وَأَبِي عَلِيٍّ الْبَيْهَقِيِّ الْبَسْتِيِّ
وَإِنْ اسْتَوَتْ مَنَازِلُهُمْ وَلَيْسَ فِيهِمْ مَنْ يَدِي إِلَيَّ بِوَارِثٍ أَوْ كَانَ
كُلُّهُمْ يَدِي لَوْ بَوَارِثٍ فَإِنْ اتَّفَقَتْ صِفَةُ مَنْ يَدِي لَوْ وَاتَّحَدَتْ
قَرَابَتُهُمْ فَالْقِسْمَةُ عَلَيَّ أَبَدَانِهِمْ وَإِنْ اخْتَلَفَتْ صِفَةُ مَنْ يَدِي لَوْ
بِهِمْ يُقْسَمُ الْبَالُ عَلَيَّ أَوَّلُ بَطْنٍ اخْتَلَفَ كَمَا فِي الصَّنْفِ

الأول

مُحَمَّدٌ رَحِمَهُ اللَّهُ يُعْتَبَرُ الْجِهَاتُ فِي الْأَصُولِ كَمَا إِذَا تَرَكَ

بِنْتَيْنِ بِنْتُ بِنْتٍ وَهَبَا أَيْضًا بِنْتًا ابْنِ بِنْتٍ وَابْنِ بِنْتٍ بِنْتٍ

بِهَذِهِ الصُّورَةِ

بِنْتُ	بِنْتُ	بِنْتُ
بِنْتُ	ابْنُ	بِنْتُ
ابْنُ	بِنْتَيْنِ	

عِنْدَ أَبِي يُوسُفَ الْهَالُ بَيْنَهُمْ أَثَلَاثَاوَحْ صَارَ الْهَيْتُ كَأَنَّهُ تَرَكَ

أَرْبَعَ بَنَاتٍ وَابْنًا فَيَكُونُ ثَلَاثًا لِلْبِنْتَيْنِ وَثَلَاثَةً لِلْابْنِ وَعِنْدَهُ

مُحَمَّدٌ رَحِمَهُ اللَّهُ الْهَالُ بَيْنَهُمْ عَلَي ثَبَانِيَّةٍ وَعِشْرِينَ سَهْمًا

لِلْبِنْتَيْنِ اثْنَانِ وَعِشْرُونَ سَهْمًا سِتَّةَ عَشْرَ مِنْ قَبْلِ أَبِيهَا

وَسِتَّةَ أَصْحَابٍ مِنْ قَبْلِ أُمِّهَا وَلِلْابْنِ سِتَّةَ أَصْحَابٍ مِنْ قَبْلِ أُمِّهِ

فَصُلِّ

ابن البنت اذ هي نصيب جدّها و ثلاثة سباعه وهو

نصيب البنتين يقسم علي و لديهما اعني في البطن

الثالث انصافا نصفه لبنت ابن بنت البنت نصيب

ابيهما والنصف الآخر لابني بنت بنت البنت نصيب امهما

وتصح من ثمانية وعشرين و قول محمد رحمه الله اشهر

الروايتين عن ابى حنيفة رحمه الله في جميع احكام

ذوي الارحام وهو قول ابي يوسف الاول ثم رجع فقال

لا عبرة للأصول البتة

فصل

علمنا و نأرجوهم الله يعتبرون الجهات في التوريث غير ان

ابا يوسف رحمه الله يعتبر الجهات في ابدان الفروع و

محمد

الْقِسْبَةُ وَالْعَدَدُ مِنَ الْفُرُوعِ كَمَا إِذَا تَرَكَ ابْنِي بِنْتِ بِنْتِ

بَنْتٌ وَبَنْتٌ ابْنِ بَنْتٍ وَبَنْتِي بَنْتٌ ابْنِ بَنْتٍ بِهَذِهِ الصُّورَةُ

بَنْتٌ	بَنْتٌ	بَنْتٌ
ابْنٌ	بَنْتٌ	بَنْتٌ
بَنْتٌ	ابْنٌ	بَنْتٌ
بَنْتَيْنِ	بَنْتٌ	ابْنَيْنِ

عَنْ أَبِي يُوسُفَ رَحِمَهُ اللَّهُ يَقْسِمُ الْمَالُ بَيْنَ الْغُرُوحِ أَسْبَاعًا

باعتبار ابدانهم وعند محمد رحمة الله يقسم البهال علي

اعلي الخلاف اعني في البطن الثاني اسباعا باعتبار

عَدَدُ الْفُرُوعِ فِي الْأَصُولِ فَعِنْدَهُ أَرْبَعَةٌ أَسْبَاعُهُ لِبَنَتِي بِنْتُ

وَكَذَلِكَ عِنْدَ مُحَمَّدٍ رَحِمَهُ اللَّهُ إِذَا كَانَ أَوْلَادُ الْبَنَاتِ

مُخْتَلِفَةً يَقْسَمُ الْهَالُ عَلَى أَوَّلِ بَطْنٍ اخْتَلَفَ فِي الْأَصُولِ

ثُمَّ يُجْعَلُ الذَّكُورُ طَائِفَةً وَالْأُنَاثُ طَائِفَةً أُخْرَى بَعْدَ الْقِسْمَةِ

فَمَا أَصَابَ الذَّكُورَ يَجْمَعُ وَيَقْسَمُ عَلَى أَعْلَى الْخِلَافِ الَّذِي

وَقَعَ فِي أَوْلَادِهِمْ وَكَذَلِكَ مَا أَصَابَ الْأُنَاثُ وَهَكَذَا يُعْمَلُ

إِلَى أَنْ يَنْتَهِيَ بِهَذِهِ الصُّورَةِ

بِنْتُ	بِنْتُ	بِنْتُ	بِنْتُ	بِنْتُ	بِنْتُ	بِنْتُ	بِنْتُ	بِنْتُ	بِنْتُ	بِنْتُ
بِنْتُ	بِنْتُ	بِنْتُ	بِنْتُ	بِنْتُ	بِنْتُ	بِنْتُ	بِنْتُ	بِنْتُ	بِنْتُ	بِنْتُ
بِنْتُ	بِنْتُ	بِنْتُ	بِنْتُ	بِنْتُ	بِنْتُ	بِنْتُ	بِنْتُ	بِنْتُ	بِنْتُ	بِنْتُ
بِنْتُ	بِنْتُ	بِنْتُ	بِنْتُ	بِنْتُ	بِنْتُ	بِنْتُ	بِنْتُ	بِنْتُ	بِنْتُ	بِنْتُ
بِنْتُ	بِنْتُ	بِنْتُ	بِنْتُ	بِنْتُ	بِنْتُ	بِنْتُ	بِنْتُ	بِنْتُ	بِنْتُ	بِنْتُ
بِنْتُ	بِنْتُ	بِنْتُ	بِنْتُ	بِنْتُ	بِنْتُ	بِنْتُ	بِنْتُ	بِنْتُ	بِنْتُ	بِنْتُ

وَكَذَلِكَ

يَعْتَبَرُ أَبْدَانُ الْغُرُوعِ إِنْ اتَّفَقَتْ صِغَةُ الْأَصُولِ مُوَافِقًا لَهَا

وَيَعْتَبَرُ أَبْدَانُ الْأَصُولِ إِنْ اخْتَلَفَتْ صِفَاتُهُمْ وَيُعْطَى الْغُرُوعُ

مِيرَاثُ الْأَصُولِ مَخَالِفًا لَهَا كَمَا إِذَا تَرَكَ ابْنُ بِنْتٍ وَبِنْتُ بِنْتٍ

عِنْدَ هَبَا الْبَالِ بَيْنَهُمَا لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثَيَيْنِ بِاعْتِبَارِ

الْأَبْدَانِ وَعِنْدَ مُحَمَّدٍ رَحِمَهُ اللَّهُ كَذَلِكَ لِأَنَّ صِغَةَ الْأَصُولِ

مُتَّفِقَةٌ وَلَوْ تَرَكَ بِنْتُ ابْنٍ بِنْتٍ وَابْنُ بِنْتٍ بِنْتٍ عِنْدَ هَبَا

الْبَالِ بَيْنَ الْغُرُوعِ اثْنَلَاثًا بِاعْتِبَارِ الْأَبْدَانِ ثَلَاثَةً لِلذَّكَرِ

وِثْلَتَهُ لِلْأُنثَى وَعِنْدَ مُحَمَّدٍ رَحِمَهُ اللَّهُ عَلَيْهِ الْبَالُ بَيْنَ

الْأَصُولِ أَعْنِي فِي الْبَطْنِ الثَّانِيِ اثْنَلَاثًا ثَلَاثَةً لِبِنْتِ ابْنٍ

الْبِنْتِ نَصِيبُ أَبِيهَا وَثَلَاثَةٌ لِابْنِ بِنْتِ الْبِنْتِ نَصِيبُ أُمِّهِ

وَكَذَلِكَ

فَرَعَهُ وَفَرَعَهُ أَوْلِيَّ مِنْ أَصْلِهِ

فَصَلَّ فِي الصَّنْفِ الْأَوَّلِ

أَوْلَهُمْ بِالْبِيرَاتِ أَقْرَبَهُمْ إِلَى الْبَيْتِ كَبِنَتْ الْبِنْتُ فَاتَّهَا

أَوْلِيَّ مِنْ بِنْتِ بِنْتِ الْأَبْنِ وَإِنْ اسْتَوَوْا فِي الدَّرَجَةِ فَوَلَدُ

الْوَارِثِ أَوْلِيَّ مِنْ وَلَدِ دَوِي الْأَرْحَامِ كَبِنَتْ بِنْتُ الْأَبْنِ

أَوْلِيَّ مِنْ ابْنِ بِنْتِ الْبِنْتِ وَإِنْ اسْتَوَتْ دَرَجَاتُهُمْ وَلَمْ يَكُنْ

فِيهِمْ وَلَدُ الْوَارِثِ أَوْ كَانَ كُلُّهُمْ وَلَدُ الْوَارِثِ فَعِنْدَ

أَبِي يُوسُفَ رَحِمَهُ اللَّهُ وَالْحَسَنُ بْنُ زِيَادٍ يَعْتَبِرُ أَبْدَانُ

الْقُرُوعِ وَ يُقَسَّمُ الْمَالُ عَلَيْهِمْ سَوَاءً تَفَقَّتْ صِفَةُ الْأَصُولِ

فِي الذَّكُورَةِ وَالْأُنْثَى أَوْ اخْتَلَفَتْ وَمُحَمَّدٌ رَحِمَهُ اللَّهُ

يَعْتَبَرُ

يَنْتَهِي إِلَيَّ جَدِّي الْبَيْتِ أَوْجَدَتْهُ وَهِيَ الْعَبَاتُ وَالْأَعْمَامُ

لَأُمِّ وَالْأَخْوَالِ وَالْخَالَاتِ فَهَؤُلَاءِ وَكُلٌّ مَن يَدُلِّي إِلَيَّ الْبَيْتِ

بِهِمْ مَن ذَوِي الْأَرْحَامِ رَوَى أَبُو سَلَيْبَانَ عَنْ مُحَمَّدِ بْنِ

الْحَسَنِ عَنْ أَبِي حَنِيفَةَ رَحِمَهُمُ اللَّهُ أَنَّ اقْرَبَ الْأَصْنَافِ

الصَّنْفُ الثَّانِي وَإِنْ عَلَوُا ثُمَّ الْأَوَّلُ وَإِنْ سَفَلُوا ثُمَّ الثَّلَاثُ

وَإِنْ نَزَلُوا ثُمَّ الرَّابِعُ وَإِنْ بَعْدَ وَارَوَى أَبُو يُونُسَ وَالْحَسَنُ

بْنُ زَيْدٍ عَنْ أَبِي حَنِيفَةَ رَحِمَهُمُ اللَّهُ أَنَّ اقْرَبَ الْأَصْنَافِ

الْأَوَّلُ ثُمَّ الثَّانِي ثُمَّ الثَّلَاثُ ثُمَّ الرَّابِعُ كَتَرْتِيبِ الْعَصَبَاتِ

وَهُوَ الْبَاخُوذُ لِلْفَتَوَى وَعِنْدَهُمَا الصَّنْفُ الثَّلَاثُ مُقَدَّمٌ

عَلَى الْجَدَابِ الْأُمِّ لِأَنَّ عِنْدَهُمَا كُلَّ وَاحِدٍ مِنْهُمَا أَوْلَى مِنْ

بَابُ ذَوِي الْأَرْحَامِ

وَذَوِ الرَّحِمِ هُوَ كُلُّ قَرِيبٍ لَيْسَ بِيْذِي سَهْمٍ وَلَا عَصَبَةٍ كَانَتْ

عَاقِبَةُ الصَّحَابَةِ يَرُونَ تَوْرِيثَ ذَوِي الْأَرْحَامِ وَبِهِ قَالَ أَصْحَابُنَا

وَمَنْ تَابَعَهُمْ رَحِمَهُمُ اللَّهُ تَعَالَى وَقَالَ زَيْدُ بْنُ ثَابِتٍ رَضِيَ اللَّهُ

عَنْهُ لَا مِيرَاثَ لَذَوِي الْأَرْحَامِ وَيُوضَعُ الْبَالُ فِي بَيْتِ الْبَالِ

وَبِهِ قَالَ مَالِكٌ وَالشَّافِعِيُّ رَحِمَهُمَا اللَّهُ تَعَالَى وَذَوِي الْأَرْحَامِ

أَصْنَافُ أَرْبَعَةٍ الصَّنِفُ الْأَوَّلُ يَنْتَهِي إِلَى الْبَيْتِ وَهُمْ أَوْلَادُ

الْبَنَاتِ وَأَوْلَادُ بَنَاتِ الْأَبْنِ وَالصَّنِفُ الثَّانِي يَنْتَهِي إِلَيْهِمْ

الْبَيْتُ وَهُمْ الْأَجْدَادُ السَّاقِطُونَ وَالْجَدَّاتُ السَّاقِطَاتُ

وَالصَّنِفُ الثَّلَاثُ يَنْتَهِي إِلَى أَبَوَيْ الْبَيْتِ وَهُمْ أَوْلَادُ

الْأَخَوَاتِ وَبَنَاتِ الْأَخَوَةِ وَبَنُوا الْأَخَوَةَ لَأَمَّ وَالصَّنِفُ الرَّابِعُ

يَنْتَهِي

الْبَهَائِلَةُ مَا فِي يَدِهِ مِنَ التَّصْحِيحِ الْأَوَّلِ عَلَيَّ التَّصْحِيحِ

الثَّانِي فَلَا حَاجَةَ إِلَى الضَّرْبِ وَإِنْ لَمْ يَسْتَقِمْ فَاَنْظُرْ إِنْ كَانَ

بَيْنَهُمَا مُوَافَقَةٌ فَاضْرِبْ وَفَقِ التَّصْحِيحِ الثَّانِي فِي جَمِيعِ

التَّصْحِيحِ الْأَوَّلِ وَإِنْ كَانَ بَيْنَهُمَا مُبَايَنَةٌ فَاضْرِبْ كُلَّ

التَّصْحِيحِ الثَّانِي فِي كُلِّ التَّصْحِيحِ الْأَوَّلِ فَالْمُبْلَغُ مَخْرَجُ

الْبَسَلَتَيْنِ فَسِهَامٌ وَرَثَةُ الْبَيْتِ الْأَوَّلِ يُضْرَبُ فِي الْبُضْرُوبِ

أَعْنِي فِي التَّصْحِيحِ الثَّانِي أَوْفِي وَفَقِهِ وَسِهَامٌ وَرَثَةُ الْبَيْتِ

الثَّانِي يُضْرَبُ فِي كُلِّ مَا فِي يَدِهِ أَوْفِي وَفَقِهِ وَإِنْ مَاتَ

ثَلَاثٌ أَوْ رَابِعٌ فَاجْعَلِ الْمُبْلَغَ الثَّانِي مَقَامَ الْأَوَّلِ وَالثَّلَاثَ

مَقَامَ الثَّانِي فِي الْعَمَلِ ثُمَّ فِي أَرْبَعٍ وَالْخَامِسِ كَذَلِكَ

إِلَى غَيْرِ النَّهْيَةِ

وَتَعُولُ إِلَى تِسْعَةٍ وَتَصَحَّحَ مِنْ سَبْعَةٍ وَعِشْرِينَ إِنَّمَا سَبَّيْتُ

أَكْدَرِيَّةً لِأَنَّهَا وَاقِعَةٌ فِي امْرَأَةٍ مِنْ بَنِي أَكْدَرٍ وَلَوْ كَانَ

مَكَانَ الْأَخْتِ أَخٌ أَوْ اخْتَانٌ فَلَا عَوْلَ وَلَا أَكْدَرِيَّةَ

بَابُ الْهِنَاسَخَةِ

وَلَوْ صَارَ بَعْضُ الْأَنْصَبِاءِ مِيرَاثًا قَبْلَ الْقِسْمَةِ كَزَوْجٍ وَبَنَاتٍ

وَأُمِّ فَمَاتَ الزَّوْجُ قَبْلَ الْقِسْمَةِ عَنْ امْرَأَةٍ وَأَبَوَيْنِ ثُمَّ مَاتَتِ

الْبِنْتُ عَنْ ابْنَيْنِ وَبَنَاتٍ وَجَدَةٍ ثُمَّ مَاتَتِ الْجَدَةُ عَنْ زَوْجٍ

وَأَخَوَيْنِ الْأَصْلُ فِيهِ أَنْ تَصَحَّحَ مَسْئَلَةُ الْبَيْتِ الْأَوَّلِ وَتُعْطَى

سَهَامُ كُلِّ وَارِثٍ مِنْ هَذَا التَّصْحِيحِ ثُمَّ تَصَحَّحَ مَسْئَلَةُ

الْبَيْتِ الثَّانِي وَتَنْظَرُ بَيْنَ مَا فِي يَدِهِ مِنَ التَّصْحِيحِ الْأَوَّلِ

وَبَيْنَ التَّصْحِيحِ الثَّانِي إِلَى ثَلَاثَةِ أَحْوَالٍ فَإِنْ اسْتَقَامَ بِسَبَبِ

الْبَهَائِلَةِ

لَابِ وَاُمِّ وَاَسَدَسِ جَمِيعِ الْهَالِ كَجَدِّ وَجَدَّةٍ وَبَنَتٍ وَاخْوَيْنِ

وَإِذَا كَانَ ثَلَاثُ الْبَاقِي خَيْرًا لِلْجَدِّ وَلَيْسَ لِلْبَاقِي ثَلَاثُ

صَحِيحٍ فَاضْرِبْ مَخْرَجَ الثَّلَاثِ فِي أَصْلِ الْهَسْنَةِ فَإِنْ تَرَكْتَ

جَدًّا وَزَوْجًا وَبَنَتًا وَأُمًّا وَاخْتَالَابًا وَأُمًّا أَوْلَابًا فَالْسُّدُسُ خَيْرٌ

لِلْجَدِّ وَتَعُولُ الْهَسْنَةُ إِلَى ثَلَاثَةِ عَشْرٍ وَلا شَيْءَ لِلْاِخْتِ

وَاعْلَمْ أَنَّ زَيْدَ بْنَ ثَابِتٍ رَضِيَ اللَّهُ عَنْهُ لَا يَجْعَلُ الْاِخْتِ

لَابًا وَامًّا أَوْلَابًا صَاحِبَةً فَرَضَ مَعَ الْجَدِّ الْاِنْفِي الْهَسْنَةَ

الْاَكْدَرِيَّةَ وَهِيَ زَوْجٌ وَامٌّ وَجَدٌ وَاخْتِ لَابٌ وَامٌّ أَوْلَابٌ لِلزَّوْجِ

النِّصْفُ وَاللِّمُّ الثَّلَاثُ وَالْجَدُّ السُّدُسُ وَالْاِخْتِ النِّصْفُ

ثُمَّ يَضُمُّ الْجَدُّ نَصِيبَهُ إِلَى نَصِيبِ الْاِخْتِ فَيُقَسَّمَانِ لِلذَّكَرِ

مِثْلَ حَظِّ الْاُنْثَيَيْنِ لِأَنَّ الْهَقَاسَةَ خَيْرٌ لِلْجَدِّ أَصْلُهَا مِنْ سِتَّةٍ

وَتَعُولُ

بُنُو الْعَلَاتِ يَدُ خُلُونِ فِي الْقِسْمَةِ مَعَ بَنِي الْأَعْيَانِ

أَضْرَارَ الْجَدِّ فَإِذَا أَخَذَ الْجَدُّ نَصِيبَهُ فَبُنُو الْعَلَاتِ يَخْرُجُونَ

مِنَ الْبَيْنِ خَائِبِينَ بِغَيْرِ شَيْءٍ وَالْبَاقِي لِبَنِي الْأَعْيَانِ

إِلَّا إِذَا كَانَتْ مِنْ بَنِي الْأَعْيَانِ أُخْتُ وَاحِدَةٌ أَخَذَتْ

فَرَضَهَا عِنِّي الْكُلَّ بَعْدَ نَصِيبِ الْجَدِّ فَإِنْ بَقِيَ شَيْءٌ

فَلِبَنِي الْعَلَاتِ وَالْأَفْلَاحِ لَهَا وَلِهَا وَلِهَا وَلِهَا وَلِهَا

لِأَبِ وَأُمِّ وَأُخْتَيْنِ لِأَبِ فَبَقِيَ لِلْأُخْتَيْنِ لِأَبِ عَشْرُ أَمْثَالٍ وَ

تَصَحَّحَ مِنْ عَشْرِينَ وَلَوْ كَانَتْ فِي هَذِهِ الْمَسْبَلَةِ أُخْتُ لِأَبِ

لَمْ يَبْقَ لَهَا شَيْءٌ وَإِذَا اخْتَلَطَ بِهِمْ ذُو سَهْمٍ فَلِلْجَدِّ ههنا أَفْضَلُ

الْأُمُورِ الثَّلَاثَةُ بَعْدَ فَرَضِ ذِي سَهْمٍ أَمَّا لِمَقَاسَةِ كَزُوجِ

وَجَدِّ وَاخٍ وَأَمَّا ثَلَاثُ مَا يَبْقَى كَجَدِّ وَجَدَّةٍ وَخَوَيْنِ وَأُخْتِ

لِأَبِ

مَنْ لَا يَرُدُّ عَلَيْهِ فَإِنَّ انْكَسَرَ عَلَى الْبَعْضِ صَحَّحَ

الْمَسْبَلَةَ بِالْأَصُولِ الْمَذْكُورَةِ

بَابُ مَقَاسَةِ الْجَدِّ

قَالَ أَبُو بَكْرٍ الصِّدِّيقُ رَضِيَ اللَّهُ عَنْهُ وَمَنْ تَابَعَهُ مِنْ

الصَّحَابَةِ بَنُوا الْأَعْيَانِ وَبَنُوا الْعَلَاتِ لَا يَرِثُونَ مَعَ الْجَدِّ وَهَذَا

قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ وَبِهِ يُقْتَنَى وَقَالَ زَيْدُ بْنُ ثَابِتٍ

يَرِثُونَ مَعَ الْجَدِّ وَهُوَ قَوْلُهَا وَقَوْلُ مَالِكٍ وَالشَّافِعِيِّ

رَحِمَهُمُ اللَّهُ تَعَالَى وَعِنْدَ زَيْدِ بْنِ ثَابِتٍ رَحِمَهُ اللَّهُ تَعَالَى

عَلَيْهِ لِلْجَدِّ مَعَ بَنِي الْأَعْيَانِ وَالْعَلَاتِ أَفْضَلُ الْأَمْرَيْنِ

مِنَ الْبُقَاسَةِ وَمِنْ ثَلَاثِ جَمِيعِ الْهَالِ وَتَفْسِيرُ الْبُقَاسَةِ

أَنْ يُجْعَلَ الْجَدُّ فِي الْقُسْمَةِ كَأَحَدٍ مِنَ الْأَخْوَةِ وَ

بَنُو

عَدَدُ رُوسِهِمْ فِي مَخْرَجِ فَرَضٍ مَنْ لَا يَرِدُ عَلَيْهِ فَالْبَلِغُ مِنْهَا
تَصَحُّ الْمَسْبَلَةِ وَالرَّابِعُ أَنْ يَكُونَ مَعَ الثَّانِي مَنْ لَا يَرِدُ عَلَيْهِ
فَاتَّسَمَ مَا بَقِيَ مِنْ مَخْرَجِ فَرَضٍ مَنْ لَا يَرِدُ عَلَيْهِ عَلَيَّ
مَسْبَلَةٌ مَنْ يَرُدُّ عَلَيْهِ فَإِنْ اسْتَقَامَ الْبَاقِي فِيهَا وَهَذَا فِي
صُورَةٍ وَاحِدَةٍ وَهِيَ أَنْ يَكُونَ لِلزَّوْجَاتِ الرَّبْعُ وَيَكُونَ
الْبَاقِي بَيْنَ أَهْلِ الرَّدِّ ثَلَاثًا كَزَوْجَةٍ وَجَدَّةٍ وَأَخْتَيْنِ
لَمْ وَإِنْ لَمْ يَسْتَقِمْ فَاضْرِبْ جَمِيعَ مَسْبَلَةٍ مَنْ يَرُدُّ عَلَيْهِ فِي
مَخْرَجِ فَرَضٍ مَنْ لَا يَرِدُ عَلَيْهِ فَالْبَلِغُ مَخْرَجِ فَرُوضِ
الْفَرِيقَيْنِ كَأَرْبَعِ زَوْجَاتٍ وَتِسْعِ بَنَاتٍ وَسِتِّ جَدَّاتٍ
ثُمَّ اضْرِبْ سِهَامَ مَنْ لَا يَرُدُّ عَلَيْهِ فِي مَسْبَلَةٍ مَنْ يَرُدُّ عَلَيْهِ
وَسِهَامَ كُلِّ مَنْ يَرُدُّ عَلَيْهِ فِيهَا بَقِيَ مِنْ مَخْرَجِ فَرَضٍ
مَنْ

وَالثَّانِي إِذَا اجْتَمَعَ فِي الْمَسْبَلَةِ جُنَّاسَانِ أَوْ ثَلَاثَةُ أَجْنَاسٍ

مِمَّنْ يَرُدُّ عَلَيْهِ عِنْدَ عَدَمِ مَنْ لَا يَرُدُّ عَلَيْهِ فَاجْعَلِ الْمَسْبَلَةَ

مِنْ سَهَامِهِمْ أَعْنِي مِنْ اثْنَيْنِ إِنْ كَانَ فِي الْمَسْبَلَةِ سُدَّسَانِ

أَوْ مِنْ ثَلَاثَةٍ إِذَا كَانَ فِيهَا ثُلُثٌ وَسُدُّسٌ أَوْ مِنْ أَرْبَعَةٍ

إِذَا كَانَ فِيهَا نِصْفٌ وَسُدُّسٌ أَوْ مِنْ خَمْسَةٍ إِذَا كَانَ فِيهَا

ثُلُثَانِ وَسُدُّسٌ أَوْ نِصْفٌ وَسُدُّسَانِ أَوْ نِصْفٌ وَثُلُثٌ وَالثَّالِثُ

أَنْ يَكُونَ مَعَ الْأَوَّلِ مَنْ لَا يَرُدُّ عَلَيْهِ فَاعْطِ فَرْضَ مَنْ لَا يَرُدُّ

عَلَيْهِ مِنْ أَقْلِ مَخَارِجِهِ فَإِنْ اسْتَقَامَ الْبَاقِي عَلَى رُوسٍ

مَنْ يَرُدُّ عَلَيْهِ فِيهَا كَزَوْجٍ وَثَلَاثِ بَنَاتٍ وَإِنْ لَمْ يَسْتَقِمْ فَاضْرِبْ

وَفَقْ رُوسَهُمْ فِي مَخْرَجِ فَرْضِ مَنْ لَا يَرُدُّ عَلَيْهِ أَنْ وَافَقَ

رُوسَهُمُ الْبَاقِي كَزَوْجٍ وَسِتِّ بَنَاتٍ وَإِلَّا فَاضْرِبْ كُلَّ

بَابُ الرِّدِّ الرَّدِّ ضِدَّ الْعَوْلِ

وَهُوَ فِيهَا فَضْلٌ عَنْ فَرَضِ ذَوِي الْفُرُوضِ وَلَا مَسْتَحِقٌّ لَهُ

يَرَدُّ ذَلِكَ عَلَى ذَوِي الْفُرُوضِ بِقَدْرِ حُقُوقِهِمْ إِلَّا عَلَى

النَّوَاجِينِ وَهُوَ قَوْلُ عَامَّةِ الصَّحَابَةِ كَعَلِيٍّ وَمَنْ تَابَعَهُ

رَضِيَ اللَّهُ عَنْهُمْ وَبِهِ اخْتِصَّ أَصْحَابُنَا رَحِمَهُمُ اللَّهُ وَقَالَ زَيْدٌ

بْنُ ثَابِتٍ لَا يَرَدُّ الْفَا ضِلُّ بَلْ هُوَ لَبِيتُ الْهَالِ وَبِهِ اخْتِصَّ

عُرْوَةُ وَ الزَّهْرِيُّ وَمَالِكٌ وَ الشَّافِعِيُّ رَحِمَهُمُ اللَّهُ تَعَالَى

ثُمَّ مَسَابِلُ الْبَابِ أَقْسَامُ أَرْبَعَةٌ أَحَدُهَا أَنْ يَكُونَ فِي

الْمَسْبَلَةِ جِنْسٌ وَ أَحَدٌ مِنْ يَرَدُّ عَلَيْهِ عِنْدَ عَدَمِ مَنْ لَا يَرَدُّ

عَلَيْهِ فَاجْعَلِ الْمَسْبَلَةَ مِنْ رُؤُسِهِمْ كَمَا إِذَا تَرَكَ الْهَيْتُ

بِثْنَيْنِ أَوْ أُخْتَيْنِ أَوْ جَدَّتَيْنِ فَاجْعَلِ الْمَسْبَلَةَ مِنْ اثْنَيْنِ

وَالثَّانِي

بَيْنَهُمَا مَبَايِنَةٌ فَأُضْرِبَ فِي كُلِّ التَّرَكَّةِ ثُمَّ اقْسَمَ الْحَاصِلُ
 عَلَيَّ جَمِيعَ تَصْحِيحِ الْمَسْبُورَةِ فَالْخَارِجُ نَصِيبُ ذَلِكَ
 الْغَرِيفِ فِي الْوَجْهَيْنِ وَأَمَّا فِي قَضَاءِ الدِّيُونِ فَدَيْنُ
 كُلِّ غَرِيمٍ بِمَنْزِلَةِ التَّصْحِيحِ

فصل في التَّخَارُجِ

مَنْ صَالَحَ عَلَيَّ شَيْءٌ مِنَ التَّرَكَّةِ فَاطْرَ سَهْمًا مِنْ
 التَّصْحِيحِ ثُمَّ اقْسَمَ بَاقِيَ التَّرَكَّةِ عَلَيَّ سَهْمًا الْبَاقِيْنَ
 كَزَوْجٍ وَأُمٍّ وَعِمٍّ فَصَالَحَ الزَّوْجَ عَلَيَّ ذِمَّتَهُ لِلزَّوْجَةِ
 مِنَ الْمَهْرِ وَخَرَجَ مِنَ الْبَيْنِ فَيُقَسَّمُ بَاقِيَ التَّرَكَّةِ بَيْنَ
 الْأُمِّ وَالْعَمِّ اثْنَاثًا بِقَدْرِ سَهْمِهَا مَهْمَا وَحَ يَكُونُ سَهْمَانِ لِلْأُمِّ وَ
 سَهْمٌ وَاحِدٌ لِلْعَمِّ

فَصَلِّ فِي قِسْمَةٍ لِّلْثَرَكَاتِ بَيْنَ الْوَرَثَةِ وَالْغَرَمَاءِ

اِنْ كَانَ بَيْنَ التَّرَكَةِ وَالْثَّصْحِيْحِ مَبَايِنَةٌ فَاضْرِبْ سِهَامَ كُلِّ

وَارِثٍ مِّنَ الثَّصْحِيْحِ فِي جَمِيْعِ التَّرَكَةِ ثُمَّ اقْسِمِ الْبَلِغُ عَلَيَّ

الْثَّصْحِيْحِ وَاِذَا كَانَ بَيْنَ الثَّصْحِيْحِ وَالتَّرَكَةِ مُوَافَقَةٌ

فَاضْرِبْ سِهَامَ كُلِّ وَارِثٍ مِّنَ الثَّصْحِيْحِ فِي وَفَقِ التَّرَكَةِ

ثُمَّ اقْسِمِ الْبَلِغُ عَلَيَّ وَفَقِ الثَّصْحِيْحِ فَالْخَارِجُ نَصِيْبُ ذَلِكَ

الْوَارِثِ فِي الْوَجْهَيْنِ هَذَا اِنَّمَا هُوَ لِبَعْرِفَةِ نَصِيْبِ كُلِّ

فَرْدٍ مِّنَ الْوَرَثَةِ وَاَمَّا لِبَعْرِفَةِ نَصِيْبِ كُلِّ فَرِيقٍ مِنْهُمْ

فَاضْرِبْ مَا كَانَ لِكُلِّ فَرِيقٍ مِّنْ اَصْلِ الْمَسْبَلَةِ فِي

وَفَقِ التَّرَكَةِ ثُمَّ اقْسِمِ الْبَلِغُ الْحَاصِلَ عَلَيَّ وَفَقِ

الْمَسْبَلَةِ اِنْ كَانَ بَيْنَ التَّرَكَةِ وَالْمَسْبَلَةِ مُوَافَقَةٌ وَاِنْ كَانَ

بَيْنَهُمَا

وَإِذَا أَرَدْتَ أَنْ تَعْرِفَ نَصِيبَ كُلِّ وَاحِدٍ مِنْ أَحَادِ ذَلِكَ

الْفَرِيقِ مِنَ التَّنْصِيحِ فَاقْسِمِ مَا كَانَ لِكُلِّ فَرِيقٍ مِنْ

أَصْلِ الْمَسْبَلَةِ عَلَى عَدَدِ رُوسِهِمْ ثُمَّ اضْرِبِ الْخَارِجَ فِي

الْمَضْرُوبِ فَالْحَاصِلُ نَصِيبُ كُلِّ وَاحِدٍ مِنْ أَحَادِ ذَلِكَ

الْفَرِيقِ وَوَجْهٌ آخَرَانِ تَقْسِمِ الْمَضْرُوبَ عَلَى أَيِّ شَيْءٍ

ثُمَّ تَضْرِبِ الْخَارِجَ فِي نَصِيبِ الْفَرِيقِ الَّذِي قَسَمْتَ

عَلَيْهِمِ الْمَضْرُوبَ فَالْحَاصِلُ نَصِيبُ كُلِّ وَاحِدٍ مِنْ أَحَادِ

ذَلِكَ الْفَرِيقِ وَوَجْهٌ آخَرٌ هُوَ طَرِيقُ النِّسْبَةِ وَهُوَ الْوَاضِحُ

فَهُوَ أَنْ يَنْسَبَ سَهَامُ كُلِّ فَرِيقٍ مِنْ أَصْلِ الْمَسْبَلَةِ إِلَى

عَدَدِ رُوسِهِمْ مُفْرَدًا ثُمَّ يُعْطَى بِمِثْلِ تِلْكَ النِّسْبَةِ مِنْ

الْمَضْرُوبِ لِكُلِّ وَاحِدٍ مِنْ أَحَادِ ذَلِكَ الْفَرِيقِ

الْبَلَّغُ فِي أَصْلِ الْهَسْلَةِ كَارْبَعِ زَوَاجَاتٍ وَثَنَانِي عَشْرَةَ بَنَاتٍ

وَخَمْسَ عَشْرَةَ جَدَّةً وَسِتَّةَ أَعْمَامٍ وَالرَّابِعُ أَنْ تَكُونَ الْأَعْدَادُ

مُتَبَايِنَةً لَا يُوَافِقُ بَعْضُهَا بَعْضًا فَالْحَكْمُ فِيهَا أَنْ يَضْرِبَ أَحَدُ

الْأَعْدَادِ فِي جَمِيعِ الثَّانِي ثُمَّ يَضْرِبُ مَا بَلَغَ فِي جَمِيعِ

الثَّالِثِ ثُمَّ مَا بَلَغَ فِي جَمِيعِ الرَّابِعِ ثُمَّ يَضْرِبُ مَا اجْتَمَعَ

فِي أَصْلِ الْهَسْلَةِ كَأَمْرَ اثْنَيْنِ وَسِتِّ جَدَّاتٍ وَعَشْرَةِ بَنَاتٍ

وَسَبْعَةِ أَعْمَامٍ

فَصْلٌ

وَإِذَا أَرَدْتَ أَنْ تَعْرِفَ نَصِيبَ كُلِّ فَرِيقٍ مِنَ التَّصْحِيحِ

فَاضْرِبْ مَا كَانَ لِكُلِّ فَرِيقٍ مِنْ أَصْلِ الْهَسْلَةِ فِيهَا ضَرْبَتَهُ

فِي أَصْلِ الْهَسْلَةِ فَمَا حَصَلَ كَانَ نَصِيبُ ذَلِكَ الْفَرِيقِ

وَإِذَا

أَصْلُ الْهَيْسَلَةِ كَزَوْجٍ وَخَمْسِ أَخَوَاتٍ لَابٍ وَأُمٍّ وَأَمَّا الْأَرْبَعَةُ

فَأَحَدُهَا أَنْ يَكُونَ الْكُسْرُ عَلَى طَانِقَتَيْنِ أَوْ أَكْثَرٍ وَلَكِنْ

بَيْنَ أَعْدَادٍ رُوسِهِمْ مِثْلُ ثَلَاثَةٍ فَالْحُكْمُ فِيهَا أَنْ يَضْرِبَ أَحَدٌ

الْأَعْدَادِ فِي أَصْلِ الْهَيْسَلَةِ مِثْلُ سِتِّ بَنَاتٍ وَثَلَاثِ جَدَّاتٍ

وِثْلَاثَةِ أَعْمَامٍ وَالثَّانِي أَنْ يَكُونَ بَعْضُ الْأَعْدَادِ فِي بَعْضِهِ

مُتَدًا إِخْلًا فَالْحُكْمُ فِيهَا أَنْ يَضْرِبَ أَكْثَرُ الْأَعْدَادِ فِي

أَصْلِ الْهَيْسَلَةِ كَأَرْبَعِ زَوْجَاتٍ وَثَلَاثِ جَدَّاتٍ وَاثْنِي

عَشْرَةً وَالثَّلَاثُ أَنْ يُوَافِقَ بَعْضُ الْأَعْدَادِ بَعْضًا فَالْحُكْمُ

فِيهَا أَنْ يَضْرِبَ وَفَّقَ أَحَدُ الْأَعْدَادِ فِي جَمِيعِ الثَّانِي ثُمَّ

مَا بَلَغَ فِي وَفَّقَ الثَّلَاثُ أَنْ يُوَافِقَ الْهَيْلُ الْثَّلَاثُ وَالْأ

فَالْهَيْلُ فِي جَمِيعِ الثَّلَاثِ ثُمَّ فِي الرَّابِعِ كَذَلِكَ ثُمَّ يَضْرِبُ

الْهَيْلُ

بَابُ التَّصْحِيحِ

يُحْتَاجُ فِي تَصْحِيحِ الْمَسَائِلِ إِلَى سَبْعَةِ أَصُولٍ ثَلَاثَةٌ مِنْهَا

بَيْنَ السَّهَامِ وَالرُّوسِ وَأَرْبَعَةٌ مِنْهَا بَيْنَ الرُّوسِ وَلَرُوسٍ أَمَّا

الْثَّلَاثَةُ فَأَحَدُهَا إِنْ كَانَ سِهَامٌ كُلِّ فَرِيقٍ مُنْقَسِبَةً عَلَيْهِمْ

بِلا كَسْرِ فَلَا حَاجَةَ إِلَى الضَّرْبِ كَأَبَوَيْنِ وَبَنَتَيْنِ وَالثَّانِي

هُوَ أَنْ يَنْكَسِرَ عَلَى طَائِفَةٍ وَاحِدَةٍ نَصِيبُهُمْ وَلَكِنْ بَيْنَ سَهَامِهِمْ

وَرُوسِهِمْ مُوَافَقَةٌ فَيُضْرَبُ وَفَقْدَ عَدَدِ رُوسٍ مِنْ أَنْكَسَرَ

عَلَيْهِمُ السَّهَامُ فِي أَصْلِ الْمَسْئَلَةِ وَعَوْلُهَا إِنْ كَانَتْ عَابِلَةً

كَأَبَوَيْنِ وَعَشْرَ بَنَاتٍ أَوْ زَوْجٍ وَأَبَوَيْنِ وَسِتِّ بَنَاتٍ وَالثَّلَاثُ

أَنْ يَنْكَسِرَ سَهَامُهُمْ وَلَا يَكُونُ بَيْنَ سَهَامِهِمْ وَرُوسِهِمْ مُوَافَقَةٌ

فَيُضْرَبُ كُلُّ عَدَدِ رُوسٍ مِنْ أَنْكَسَرَ عَلَيْهِمُ السَّهَامُ فِي

أَصْلٍ

العدد العادلها مخرج لجزء الوفق وتباين العددين

أن لا يعد العددين المختلفين معا عدد ثالث أصلا

كالسبعة مع العشرة وطريق معرفة الهوافة والمباينة بين

البعدارين المختلفين أن ينقص من الأكثر بمقدار

الأقل من الخائبين مرة أو مرارا حتي اتفقا في درجة

واحدة فإن اتفقا في واحد فلا وفق بينهما وإن اتفقا في

عدد فها متوا فغان في ذلك العدد ففي الاثنين

بالنصف وفي الثلاثة بالثلث وفي الأربعة بالرابع هكذا

إلى العشرة وفيها وراء العشرة يتوا فغان بجزء أعني في

أحد عشر بجزء من أحد عشر وفي خمسة عشر بجزء من

خمس عشرة فاعتبر هذا

كَاْمْرَاةٍ وَاِمٍ وَاَخْتَيْنِ لَابٍ وَاِمٍ وَاَخْتَيْنِ لَامٍ وَاِبْنٍ مَحْرُومٍ

بَابُ مَعْرِفَةِ التَّهَاتُلِ وَالتَّدَاخُلِ

وَالْتَوَافُقِ وَالتَّبَايُنِ بَيْنَ الْعَدَدَيْنِ

تَهَاتُلُ الْعَدَدَيْنِ كَوْنُ أَحَدٍ هَبًا مُسَاوِيًا لِلْآخَرِ

وَتَدَاخُلُ الْعَدَدَيْنِ أَنْ يُعَدَّ أَقَلُّهَا إِلَّا كَثَرَأَيُّ يُغْنِيهِ

أَوْ نَقُولُ تَدَاخُلُ الْعَدَدَيْنِ هُوَ أَنْ يَكُونَ أَكْثَرُ الْعَدَدَيْنِ

مَنْقَسِبًا عَلَيَّ الْأَقْلَ قِسْمَةً صَحِيحَةً أَوْ نَقُولُ هُوَ أَنْ زَيْدٌ عَلَيَّ

الْأَقْلَ مِثْلُهُ أَوْ أَمْثَالُهُ فَيَسَاوِي الْأَكْثَرَ أَوْ نَقُولُ أَنْ يَكُونَ

الْأَقْلَ جُزْءًا لَأَكْثَرٍ مِثْلُ ثَلَاثَةٍ وَتِسْعَةٍ وَتَوَافُقُ الْعَدَدَيْنِ أَنْ

لَا يُعَدَّ أَقَلُّهَا إِلَّا كَثَرًا وَلَكِنْ يُعَدُّ هَبًا عَدَدٌ ثَالِثٌ كَالثَّبَانِيَةِ

مَعَ الْعِشْرِينَ يُعَدُّ هَبًا أَرْبَعَةٌ فَهَبًا مُتَوَافِقَانِ بِالرَّبْعِ لِأَنَّ

الْعَدَدَ

بَابُ الْعَوْلِ

الْعَوْلُ أَنْ يَزَادَ عَلَيَّ لِمَخْرَجِ شَيْءٍ مِنْ أَجْزَانِهِ إِذَا ضَاقَ
لِمَخْرَجٍ عَنْ فَرْضٍ أَعْلَمَ أَنَّ مَجْمُوعَ الْمَخَارِجِ سَبْعَةٌ أَرْبَعَةٌ
مِنْهَا لَا تَعُولُ وَهِيَ الْاِثْنَانِ وَالثَّلَاثَةُ وَالْأَرْبَعَةُ وَالثَّانِيَةُ
وَالثَّلَاثَةُ مِنْهَا قَدْ تَعُولُ أَمَّا السَّنَةُ فَتَعُولُ إِلَى عَشْرِ وَتَرَاءُ وَشُفْعًا
وَأَمَّا اثْنِي عَشَرَ فَهِيَ تَعُولُ إِلَى سَبْعَةٍ عَشَرَ وَتَرَاءُ لَا شُفْعًا
وَأَمَّا أَرْبَعَةٌ وَعِشْرُونَ فَانْهَآ تَعُولُ إِلَى سَبْعَةٍ وَعِشْرِينَ عَوْلًا
وَاحِدًا فِي الْمَسْبَلَةِ الْمَنْبَرِيَّةِ وَهِيَ امْرَأَةٌ وَبَنَتَانِ وَابْوَانِ
وَلَا يَزَادُ عَلَيَّ هَذَا إِلَّا عِنْدَ ابْنِ مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُ
فَإِنْ عِنْدَهُ تَعُولُ أَرْبَعَةٌ وَعِشْرُونَ إِلَى أَحَدِي وَثَلَاثِينَ

كَامْرَأَةٍ

فَإِذَا جَاءَ فِي الْمَسَائِلِ مِنْ هَذِهِ الْقُرُوضِ أَحَادُ أَحَادٍ
فَمَخْرَجُ كُلِّ فَرْضٍ سِوَاهُ إِلَّا النِّصْفَ فَإِنَّهُ مِنَ الْاِثْنَيْنِ
كَالرُّبْعِ مِنَ أَرْبَعَةٍ وَالثُّمْنِ مِنْ ثَمَانِيَةٍ وَالثَّلَاثُ مِنْ
ثَلَاثَةٍ وَإِذَا جَاءَ مِثْنِي أَوْ ثَلَاثَ وَهَبَا مِنْ نَوْعٍ وَاحِدٍ فَكُلُّ
عَدَدٍ يَكُونُ مَخْرَجًا لِحِزِّهِ فَذَلِكَ الْعَدَدُ أَيْضًا مَخْرَجُ
لِضِعْفِ ذَلِكَ الْحِزِّ وَلِضِعْفِ ضِعْفِهِ كَالسِّتَةِ هِيَ
مَخْرَجُ لِلْسِّدْسِ وَلِضِعْفِهِ وَإِذَا اخْتَلَطَ النِّصْفُ مِنَ النَّوعِ
الْأَوَّلِ بِكُلِّ الثَّانِي أَوْ بِبَعْضِهِ فَهُوَ مِنْ سِتَّةٍ وَإِذَا اخْتَلَطَ
الرُّبْعُ بِكُلِّ الثَّانِي أَوْ بِبَعْضِهِ فَهُوَ مِنْ اِثْنَيْ عَشَرَ وَإِذَا
اخْتَلَطَ الثُّمْنُ بِكُلِّ الثَّانِي أَوْ بِبَعْضِهِ فَهُوَ مِنْ أَرْبَعَةٍ

عَشْرِينَ

بَابُ

التَّرَكَّةُ وَالثَّانِي الْأَقْرَبُ فَلَا اقْرَبُ كَمَا ذَكَرْنَا فِي

العصبات والبحر وم لا يحجب عندنا وعند ابن مسعود

رضي الله عنه يحجب حجب النقصان كما لك في

والقائد والرقيق والسجوب يحجب بالاتفاف

كالأثنين من الأخوة والأخوات فصاعدا من أي جهة

كما نأفأ عنها لا يرثن مع الأب لكن يحجبان الأم من

الثالث إلى السادس

باب مخارج الفروض

اعلم أن الفروض الستة البذ كورة في كتاب الله

تعالى نوعان الأول النصف والرابع والثمن والثاني

الثلاث والثالث والسادس على التنصيف والتضعيف

فإذا

بَابُ الْحَجْبِ

الْحَجْبُ عَلَى تَوْعِينِ حَجْبِ نَقْصَانٍ وَهُوَ حَجْبٌ عَنْ سَهْمٍ

إِلَى سَهْمٍ وَذَلِكَ لِخُمُسَةِ نَعْرِ لِلزَّوْجَيْنِ وَالْأُمِّ وَبِنْتِ الْإِبْنِ

وَالْأَخْتِ لِأَبٍ وَقَدْ مَرَّبِيَا لَهُ وَحَجْبُ جِرْمَانٍ وَالْوَرِثَةُ فِيهِ

فَرِيقَانِ فَرِيقٌ لَا يَحْجَبُونَ بِحَالِ الْبَنَةِ وَهُمْ سِتَّةُ الْإِبْنِ

وَالْأَبُّ وَالزَّوْجُ وَالْبِنْتُ وَالْأُمُّ وَالزَّوْجَةُ وَفَرِيقٌ يَرْتُونَ

بِحَالٍ وَيَحْجَبُونَ بِحَالٍ وَهَذَا مَبْنِيٌّ عَلَى أَصْلَيْنِ أَحَدُ

هُمَا هُوَ أَنْ كُلَّ مَنْ يَدْلِي إِلَى الْمَيِّتِ بِشَخْصٍ لَا يَرِثُ مَعَ

وُجُودِ ذَلِكَ الشَّخْصِ كَأَبْنِ الْإِبْنِ مَعَ الْإِبْنِ سِوَى

أَوْلَادِ الْأُمِّ فَإِنَّهُمْ يَرْتُونَ مَعَهَا لِانْعِدَامِ اسْتِحْقَاقِهَا جَمِيعَ

التَّيَرِ

أَوْاعْتَقَ مَنْ أَعْتَقَنَ أَوْكَأَ تَبْنُ أَوْكَأَ تَبْ مَنْ كَأَ تَبْنُ
 أَوْدَبْرَنَ أَوْدَبْرَ مَنْ دَبْرَنَ أَوْجَرَوْلًا مُعْتَقُهُنَّ وَلَوْ تَرَكَ أَبَا
 الْبُعْتَقِ وَأَبْنَهُ سُدُسُ الْأَوْلَى لِلْأَبِ وَالْبَا قِي لِلْأَبْنِ
 أَعِنْدَ هُمَا كُلُّهُ لِلْأَبْنِ وَلَوْ تَرَكَ ابْنُ الْبُعْتَقِ وَجَدَّهُ
 فَالْأَوْلَى كُلُّهُ لِلْأَبْنِ بِالْإِتِّفَاقِ وَمَنْ مَلَكَ ذَارِحِمَ مُحَرَّمٍ
 مِنْهُ عَتَقَ عَلَيْهِ وَيَكُونُ وَلَاؤُهُ لَهُ كَثَلَاثَ بَنَاتٍ لِلصَّغْرَى
 عَشْرُونَ دِينَارًا وَلِلْكُبْرَى ثَلَاثُونَ دِينَارًا فَاشْتَرَا أَبَا هُمَا
 بِالْخُبُسَيْنِ ثُمَّ مَاتَ الْأَبُ وَتَرَكَ شَيْئًا مِنَ الْمَالِ فَالْثَلَاثَانِ
 بَيْنَهُنَّ أَثْلَاثًا بِالْغَرَضِ وَالْبَاقِي بَيْنَ مُشْتَرَتِي الْأَبِ
 أَخْمَا سَا ثَلَاثَةٌ أَخْبَاسٍ لِلْكُبْرَى وَخُبُسَاةٌ لِلصَّغْرَى
 فَتَصَحَّحَ مِنْ خُمُسَةٍ وَأَرْبَعِينَ

الْحُكْمُ فِي أَعْمَامِ الْبَيْتِ ثُمَّ فِي أَعْمَامِ أَبِيهِ ثُمَّ فِي أَعْمَامِ
جَدِّهِ أَمَّا الْعَصَبَةُ بِغَيْرِهِ فَأَرْبَعٌ مِنَ النِّسْوَةِ وَهِنَّ اللَّائِي
فَرَضَهُنَّ النِّصْفُ وَالثَّلَاثَانِ يَصِرْنَ عَصَبَةً بِإِخْوَتِهِنَّ
كَمَا ذَكَرْنَا فِي حَالَاتِهِنَّ وَمَنْ لَفَرَضَ لَهَا مِنَ الْإِنَاثِ
وَأَخُوهَا عَصَبَةٌ لَا تَصِيرُ عَصَبَةً بِأَخِيهَا كَالْعَمِّ وَالْعَمَّةِ
وَأَمَّا الْعَصَبَةُ مَعَ غَيْرِهِ فَكُلُّ أَنْثَى تَصِيرُ عَصَبَةً مَعَ أَنْثَى
أُخْرَى كَالْأَخْتِ مَعَ الْبِنْتِ كَمَا ذَكَرْنَا وَأَخِرُ الْعَصَبَاتِ
مَوْلَى الْعِتَاقَةِ ثُمَّ عَصَبَتُهُ عَلَى التَّرْتِيبِ الَّذِي ذَكَرْنَا
لِقَوْلِهِ عَلَيْهِ الصَّلَاةُ وَالسَّلَامُ الْوَلَاءُ لِلْحَبَةِ كُلِّ حَبَةٍ النَّسَبِ
وَلَا شَيْءَ لِلْإِنَاثِ مِنْ وَرَثَةِ الْبُعْتَقِ لِقَوْلِهِ عَلَيْهِ الصَّلَاةُ
وَالسَّلَامُ لَيْسَ لِلنِّسَاءِ مِنَ الْوَلَاءِ شَيْءٌ إِلَّا مَا اعْتَقَنَ
أَوْ اعْتَقَتْ

واصله وجزء أبيه وجزء جده الاقرب فالاقرب يرجحون
 بقرب الد زجة أعني به أولاهم با لبيات جزء البيت
 أي البنون ثم بنوهم وإن سفلوا ثم أصله أي الأب ثم الجد
 أب الأب وإن علا ثم جزء أبيه أي الأخوة ثم بنوهم
 وإن سفلوا ثم جزء جده أي الأعمام ثم بنوهم وإن سفلوا
 ثم يرجحون بقوة القرابة أعني به ذالقرابتين أولي
 من ذي قرابة واحدة ذكرًا كان أو أنثى لقوله
 عليه السلام إن أعيان بني الأب والأم يتوارثون دون
 بني العلات كالأخ لأب وأم أولي من الأخ لأب والأخت
 لأب وأم إذا صارَت عصبة مع البنت أو لي من الأخ لأب
 وابن الأخ لأب وأم أولي من ابن الأخ لأب وكذلك

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يَعْتَمِدُ السُّدُسُ بَيْنَهُمَا عِنْدَ أَبِي يُوسُفَ رَحِمَهُ اللَّهُ عَلَيْهِ

انصافاً بما عتبار الأبدانِ وعند محمدٍ رحمة الله عليه

اثلاثاً بما عتبار الجهات

بَابُ الْعَصَبَاتِ

الْعَصَبَاتُ النَّسَبِيَّةُ ثَلَاثَةٌ عَصَبَةُ بِنَفْسِهِ وَعَصَبَةُ بغيرِهِ

وَعَصَبَةُ مَعَ غَيْرِهِ أَمَّا الْعَصَبَةُ بِنَفْسِهِ فَكُلُّ ذَكَرٍ لَا يَدُ خُلِّ

فِي نَسَبَتِهِ إِلَى الْبَيْتِ أَنْثَى وَهِيَ أَرْبَعَةُ أَصْنَافٍ جُزْ الْبَيْتِ

وَأَصْلُهُ

وابوين اوزوجة وابوين ولو كان مكان الاب جد فلام
 ثلث جميع البال الا عند ابي يوسف رحمه الله فان لها
 ايضا ثلث الباقي وللجدة السدس لأم كانت اولاب
 واحدة كانت او اكثر اذا كن ثابتات متحاذيات
 في الدرجة ويسقطن كنهت بالأم والأبويات ايضا
 بالاب وكذلك بالجدة الام الاب وان علت فانها ترث
 مع الجدة لانها ليست من قبله والجدة القربي من اي
 جهة كانت تحجب الجدة البعدي من اي جهة
 كانت و امرثة كانت القربي او محجوبة واذا كانت
 الجدة ذات قرانة واحدة كام ام الاب والا خري ذات
 قرأتين او أكثر كام ام الأم وهي ايضا أم أب الأب
 بهذه الصورة

لَأَبٍ وَأُمٍّ وَلَهُنَّ السَّدُسُ مَعَ الْأَخْتِ لِأَبٍ وَأُمٍّ تَكْمِلَةٌ
لِلثَلَاثِينَ وَلَا يَرِثُنَّ مَعَ الْأَخْتَيْنِ لِأَبٍ وَأُمٍّ إِلَّا أَنْ يَكُونُ
مَعَهُنَّ أَخٌ لِأَبٍ فَيُعْصِبُهُنَّ وَيَكُونُ الْبَاقِي بَيْنَهُنَّ لِلدَّكْرِ
مِثْلَ حَظِّ الْأُنثَيَيْنِ وَالسَّادِسَةُ أَنْ يَصْرُنَّ عَصَبَةً مَعَ الْبَنَاتِ
أَوْ مَعَ بَنَاتِ الْأَبْنِ لَهَا ذَكَرُنَا وَبَنُو الْأَعْيَانِ وَبَنُو الْعَلَاتِ
كُلُّهُمْ يَسْقُطُونَ بِالْأَبْنِ وَأَبْنِ الْأَبْنِ وَإِنْ سَقَلَ وَبِالْأَبِ
بِالْإِنْفَاقِ وَبِالْجِدِّ عِنْدَ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى
وَيَسْقُطُ بَنُو الْعَلَاتِ أَيْضًا بِالْأَخِ لِأَبٍ وَأُمٍّ أَمَّا لِلْأُمِّ فَأَحْوَالُ
ثَلَاثِ السَّدُسِ مَعَ الْوَلَدِ أَوْ وَلَدِ الْأَبْنِ وَإِنْ سَقَلَ أَوْ مَعَ الْأُ
ثْنَيْنِ مِنَ الْأَخُوَّةِ وَالْأَخَوَاتِ فَبَاعِدًا مِنْ أَيِّ جِهَةٍ كَانَا
وَتَلَتْ الْكَلَّ عِنْدَ عَدَمِ هَوَاءِ الْهَذَكُورِينَ وَتَلَتْ مَا بَقِيَ
بَعْدَ فَرَضِ أَحَدِ الزَّوْجَيْنِ وَذَلِكَ فِي مَسْنَلَتَيْنِ زَوْجٍ
وَأَبَوَيْنِ

الْأَوَّلِ النِّصْفِ وَلِلْوَسْطِيِّ مِنَ الْغَرِيبِ الْأَوَّلِ مَعَ
 مَنْ يَوْ أَرْبَعًا السُّدُسُ تَكْمِلَةُ الثَّلَاثِينَ وَلَا شَيْءَ
 لِلْمُسْغَلِيَّاتِ أَصْلًا إِلَّا أَنْ يَكُونَ مَعَهُنَّ غُلَامٌ فَيُعْصِبُهُنَّ
 مَنْ كَانَتْ بِحِذَائِهِ وَمَنْ كَانَتْ فَوْقَهُ لَيْسَ لَهُمْ يَكُنْ
 هَاتَا سَهْمٌ وَيُسْقَطُ مَنْ دُونَهُ وَأَمَّا لِلْأَخَوَاتِ لَابٌّ وَأُمَّ
 فَأَحْوَالُ خَبَسِ النِّصْفِ لِلْوَاحِدَةِ وَالثَّلَاثَانِ لِلْأَتْنَيْنِ
 فَصَاعِدًا وَمَعَ الْأَخِ لَابٌّ وَأُمٌّ لِلَّذِي كَرُمْتُهُ حِطًّا لِنَتْنَيْنِ
 فَيُعْصِرُنَّ بِهِ عَصَبَةً لَأَسْتَوِيَّ يَهُمُّ فِي الْقَرَابَةِ إِلَى الْمَيْتِ
 وَلَهُنَّ الْبَاقِي مَعَ الْبَنَاتِ أَوْ بَنَاتِ الْأَبْنِ لِقَوْلِهِ عَلَيْهِ الصَّلَاةُ
 وَالسَّلَامُ اجْعَلُوا الْأَخَوَاتِ مَعَ الْبَنَاتِ عَصَبَةً وَالْأَخَوَاتِ
 لَابٌّ كَالْأَخَوَاتِ لَابٌّ وَأُمٌّ وَلَهُنَّ أَحْوَالُ سَبْعِ النِّصْفِ
 لِلْوَاحِدَةِ وَالثَّلَاثَانِ لِلْأَتْنَيْنِ فَصَاعِدًا عِنْدَ عَدَمِ الْأَخَوَاتِ

ابن بنت ابن ابن

ابن بنت ابن بنت ابن

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ابن بنت ابن بنت ابن بنت

العليا من الغريق الأول لا يوازها أحد والوسطى

من الغريق الأول توازها العليا من الغريق الثاني

والسغلي من الغريق الأول توازها الوسطى

من الغريق الثاني والعليا من الغريق الثالث

والسغلي من الغريق الثاني توازها الوسطى

من الغريق الثالث والسغلي من الغريق الثالث

لا يوازها أحد إذ اعرفت هذا فنقول للعليا من الغريق

الأ

كَبَنَاتِ الصَّلْبِ وَلَهُنَّ أَحْوَالٌ سِتُّ النِّصْفِ لِلْوَا حِدَةٍ
 وَالثَّلَاثَانِ لِلْاِثْنَيْنِ فَصَا عِدَا عِنْدَ عَدَمِ بَنَاتِ الصَّلْبِ
 وَلَهُنَّ السُّدُسُ مَعَ الْوَاحِدَةِ الصَّلْبِيَّةِ تَكْمِلَةً لِلْاِثْنَيْنِ
 وَلَا يَرْتَنُّ مَعَ الصَّلْبِيَّتَيْنِ إِلَّا أَنْ يَكُونَ بِحِذَابِهِنَّ أَوْ اسْفَلَ
 مِنْهُنَّ غُلَامٌ فَيُعْصِبُهُنَّ وَالْبَا فِي بَيْنَهُنَّ لِلَّذِ كَرُمُثْلُ
 حِطَّ الْأَنْثِيَّيْنِ وَيَسْقُطَنَّ كَلَّهُنَّ بِالْأَبْنِ وَلَوْ تَرَكَ ثَلَاثَ
 بَنَاتِ ابْنٍ بَعْضُهُنَّ أَسْفَلَ مِنْ بَعْضٍ وَثَلَاثَ بَنَاتِ ابْنٍ
 ابْنٍ آخَرَ بَعْضُهُنَّ أَسْفَلَ مِنْ بَعْضٍ وَثَلَاثَ بَنَاتِ ابْنٍ
 ابْنِ ابْنٍ آخَرَ بَعْضُهُنَّ أَسْفَلَ مِنْ بَعْضٍ بِهَذِهِ الصُّورَةِ
 وَتُسَمَّى مَسْنَلَةُ التَّشْبِيهِ

مِنْ
 الْغَرِيفُ الْأَوَّلُ وَالْغَرِيفُ الثَّانِي وَالْغَرِيفُ الثَّلَاثُ
 ابْنٌ ابْنٌ ابْنٌ
 ابْنٌ بِنْتُ

فَأَحْوَالُ ثَلَاثِ السُّدُسِ لِلْوَاحِدِ وَالثَّلَاثِ لِلْاِثْنَيْنِ فَصَاعِدًا

ذَكَوْرُهُمْ وَإِنَاثُهُمْ فِي الْقِسْمَةِ وَالْاِسْتِحْقَاقِ سَوَاءٌ

وَيَسْتَقْطُونَ بِالْوَلَدِ وَوَلَدِ الْاِبْنِ وَإِنْ سَفَلَ وَبِالْاَبِ

وَبِالْجَدِّ بِالْاِتِّغَابِ وَامَّا لِلزَّوْجِ فَحَا لَتَانِ النِّصْفِ

عِنْدَ عَدَمِ الْوَلَدِ وَوَلَدِ الْاِبْنِ وَإِنْ سَفَلَ وَالرَّبْعُ

مَعَ الْوَلَدِ أَوْ وَلَدِ الْاِبْنِ وَإِنْ سَفَلَ

فَصْلٌ فِي النِّسَاءِ

لِلزَّوْجَاتِ حَالَتَانِ الرَّبْعُ لِلْوَاحِدَةِ فَصَاعِدًا عِنْدَ عَدَمِ

الْوَلَدِ وَوَلَدِ الْاِبْنِ وَإِنْ سَفَلَ وَالثَّانِي مَعَ الْوَلَدِ

أَوْ وَلَدِ الْاِبْنِ وَإِنْ سَفَلَ وَامَّا بَنَاتِ الصُّلْبِ فَأَحْوَالُ ثَلَاثِ

النِّصْفِ لِلْوَاحِدَةِ وَالثَّلَاثِ لِلْاِثْنَيْنِ فَصَاعِدًا أَوْ مَعَ الْاِبْنِ

لِلذَكَرِ مِثْلُ حَطِّ الْاُنْثَيْنِ وَهُوَ يَعْصِبُهُنَّ وَبَنَاتُ الْاِبْنِ

كَبَنَاتِ

نَفَرًا أَرْبَعَةً مِنَ الرِّجَالِ وَهُمْ الْأَبُ وَالْجَدُّ الصَّحِيحُ
 وَإِنْ عَمَلًا وَالْأَخَ لَامٌ وَالزَّوْجَ وَشَبَانَ مِنَ النِّسَاءِ وَهِنَّ الزَّوْجَةُ
 وَالْبِنْتُ وَبِنْتُ الْأَبْنِ وَإِنْ سَفَلَتْ وَالْأَخْتُ الْأَبِ وَأُمٌّ
 وَالْأَخْتُ لَابٌ وَالْأَخْتُ لَامٌ وَالْجَدُّ الصَّحِيحُ
 وَهِيَ الَّتِي لَا يَدْخُلُ فِي نِسْبَتِهَا إِلَى الْبَيْتِ جَدٌّ فَاسِدٌ
 أَمَّا لَابٌ فَأَحْوَالٌ ثَلَاثُ الْفَرَضِ الْمَطْلُوقُ وَهُوَ السُّدُسُ
 وَذَلِكَ مَعَ الْأَبْنِ أَوْ ابْنِ الْأَبْنِ وَإِنْ سَفَلَتْ وَالْفَرَضُ
 وَالتَّعْصِيبُ مَعَاوِذُكَ مَعَ الْأَبْنَةِ أَوْ ابْنَةِ الْأَبْنِ وَإِنْ سَفَلَتْ
 وَالتَّعْصِيبُ الْبَحْضُ وَذَلِكَ عِنْدَ عَدَمِ الْوَلَدِ وَوَلَدِ الْأَبْنِ
 وَإِنْ سَفَلَتْ وَالْجَدُّ الصَّحِيحُ كَالأَبِ إِلَّا فِي أَرْبَعِ مَسَائِلٍ
 وَسَنْدٌ كَرَهَا أَنْشَاءُ اللَّهِ تَعَالَى وَيَسْقُطُ الْجَدُّ بِالْأَبِ
 لِأَنَّ الْأَبَ أَصْلٌ فِي قَرَابَةِ الْجَدِّ إِلَى الْبَيْتِ وَأَمَّا الْوَلَدُ الْأُمُّ
 فَأَحْوَالٌ

مَصْرًا عَلَى إِقْرَارِهِ ثُمَّ الْهَوَی لَهُ بِجَمِیعِ الْمَالِ ثُمَّ بَیْتُ الْمَالِ

فَصَلَ فِي الْهَوَا نِعَ مِنْ الْأَرْضِ

الْبَانِعُ مِنَ الْأَرْضِ أَرْبَعَةُ الرِّقَّ وَافْرَاكَانَ أَوْثَانًا وَالْقَتْلُ

الَّذِي يَتَعَلَّقُ بِهِ وَجُوبُ الْقِصَاصِ أَوْ الْكَفَّارَةِ وَاخْتِلَافُ

الدِّينَيْنِ وَاخْتِلَافُ الدَّارَيْنِ إِمَّا حَقِيقَةً كَالْحَرْبِيِّ

وَالذِّمِّيِّ أَوْ حُكْمًا كَالْهَسْتَا مِنَ وَالِدِ مِيٍّ أَوِ الْحَرْبِيِّ

مِنْ دَارَيْنِ مُخْتَلَفَيْنِ وَالِدَ إِرَا نَهَا تَخْتَلِفُ

بِاخْتِلَافِ الْبُنْعَةِ وَالْبَلَكِ لِانْقِطَاعِ الْعِصْبَةِ فِيهَا بَيْنَهُمْ

بَابُ مَعْرِفَةِ الْغُرُوضِ وَمُسْتَحَقِّهَا

الْغُرُوضُ الْمَقْدَرَةُ فِي كِتَابِ اللَّهِ تَعَالَى سِتَّةُ النِّصْفِ

وَالرَّبْعِ وَالثَّمْنِ وَالثَّلَاثَانِ وَالثَّلَاثِ وَالسُّدُسِ عَلَى

التَّصْعِيفِ وَالتَّنْصِيفِ وَأَصْحَابُ هَذِهِ السَّهَامِ اثْنِي عَشَرَ

نَفَرًا

وَتَكْفِينِهِ بِالْإِتْبَادِ وَلِاتِّعَظِيرِ ثُمَّ يُقْضَى دَيْوْنُهُ مِنْ
جَمِيعِ مَا بَقِيَ مِنْ مَالِهِ ثُمَّ تُنْفَذُ وَصَايَاهُ مِنْ ثُلُثِ
مَا بَقِيَ بَعْدَ الدَّيْنِ ثُمَّ يُقَسَّمُ الْبَاقِي بَيْنَ وَرَثَتِهِ
بِالْكِتَابِ وَالسُّنَّةِ وَاجْتِمَاعِ الْأُمَّةِ فَيُبْدَأُ بِأَصْحَابِ
الْفَرَائِضِ وَهُمْ الَّذِينَ لَهُمْ سَهَامٌ مُقَدَّرَةٌ فِي كِتَابِ
اللَّهِ تَعَالَى ثُمَّ بِالْعَصَبَاتِ مِنْ جِهَةِ النَّسَبِ وَالْعَصَبَةُ
كُلُّ مَنْ يَأْخُذُ مِنَ التَّرَكَّةِ مَا أَبْقَتْهُ أَصْحَابُ الْفَرَائِضِ
وَ عِنْدَ الْإِنْفِرَادِ يَحْرُزُ جَمِيعُ الْبَالِ ثُمَّ بِالْعَصَبَةِ مِنْ
جِهَةِ السَّبَبِ وَهُوَ مَوْلَى الْعِتَاقَةِ ثُمَّ عَصَبَتُهُ ثُمَّ الرَّدُّ
عَلَى ذَوِي الْفُرُوضِ النَّسَبِيَّةِ بِقَدْرِ حَقُّوْقِهِمْ ثُمَّ ذَوِي
الْأَرْحَامِ ثُمَّ مَوْلَى الْهَوَالَةِ ثُمَّ الْهَقْرُ لَهُ بِالنَّسَبِ عَلَى الْغَيْرِ
بِحَيْثُ لَمْ يَثْبُتْ نَسَبُهُ مِنْ ذَلِكَ الْغَيْرِ إِذَا مَاتَ الْهَقْرُ
مُصَرًّا

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

الْحَمْدُ لِلَّهِ رَبِّ الْعَالَمِينَ حَمْدَ الشَّاكِرِينَ وَالصَّلَاةُ
عَلَى خَيْرِ الْبَرِيَّةِ مُحَمَّدٍ وَآلِهِ الطَّيِّبِينَ قَالَ رَسُولُ اللَّهِ
صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ تَعَلَّمُوا الْفَرَائِضَ وَعَلِّمُوا النَّاسَ
فَإِنَّهَا نِصْفُ الْعِلْمِ قَالَ عَلَمَاؤُنَا رَحِمَهُمُ اللَّهُ يَتَعَلَّقُ
بِتَرْكَةِ الْبَيْتِ حُقُوفُ أَرْبَعَةٍ مَرَّتَبَةٍ الْأَوَّلُ يَبْدَأُ بِتَجْهِيزِهِ
وَتَكْفِينِهِ

مكتبة جامعة القاهرة
القاهرة

تتمتع المكتبة بأكبر مجموعة من المخطوطات العربية

والتي يرجع تاريخها إلى القرنين الثامن والتاسع للهجرة

وتحتفظ المكتبة بأكثر من مائة ألف مجلد من الكتب المطبوعة

والتي تشمل جميع فروع المعرفة الإنسانية

وتتضمن المكتبة أيضاً مجموعة من النسخ النادرة

Jones, William

The works of Sir William Jones

Bd.: 3.

London (1799)

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